

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Greenhouse Gas (GHG) Tailoring Rule
(LAC 33:III.502.A & 509.B) (AQ314ft)

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.502.A & 509.B (Log #AQ314ft).

This rule is identical to federal regulations found in June 3, 2010, FR 75, Part 106, Pages 31606-31607, 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).

On June 3, 2010, the Environmental Protection Agency (EPA) promulgated a rule entitled "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (Tailoring Rule) (75 FR 31514). The final rule establishes a separate major source threshold and Prevention of Significant Deterioration (PSD) significance level for greenhouse gases (GHGs) in the form of carbon dioxide equivalents (CO₂e). This action will amend LAC 33:III.502.A and 509.B to adopt the federal thresholds.

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

LAC 33:III.509.B currently defines "major stationary source" and "significant," in relevant part, as follows:

Major Stationary Source-

- a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Section;
- b. or stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Section;

Significant-

b. in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that Subparagraph a of this definition does not list, any emissions rate;

Consequently, in the absence of thresholds specifically tailored to GHGs, the Title V and PSD major source threshold would be 100 or 250 tons per year (depending on the source category), and any increase in GHG emissions resulting from a physical change or change in the method of operation at a major source would trigger PSD review.

According to the Tailoring Rule, this would greatly increase the number of required permits, impose undue costs on small sources, overwhelm the resources of permitting authorities, and severely impair the functioning of the programs (75 FR 31514). The basis and rationale for this Rule is to adopt the federal major stationary source threshold and PSD significance level for GHGs. 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.

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.

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CO₂ Equivalent Emissions (CO₂e)—the emitted amount of greenhouse gases (GHGs) computed by multiplying the mass amount of emissions for each of the six greenhouse gases in the pollutant GHGs by the gas's associated global warming potential published in Table A-1 to Subpart A of 40 CFR, Part 98—Global Warming Potentials, and summing the resultant value for each.

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Greenhouse Gases (GHGs)—an air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

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Major Stationary Source—

- a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant (except for GHGs) subject to regulation under this Section;
- b. for stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant (except for GHGs) subject to regulation under this Section;
- c. as of July 1, 2011, any stationary source listed in Table A of this definition which emits, or has the potential to emit, 100 tpy or more of *GHGs* on a mass basis (i.e., no global warming potentials applied) and 100,000 tons per year or more of *CO₂e*; or any stationary source not listed in Table A that emits, or has the potential to emit, 250 tpy or more of *GHGs* on a mass basis and 100,000 tons per year or more of *CO₂e*; or
- d. any physical change that would occur at a source not otherwise qualifying as a major stationary source under Subparagraphs a, b, or c of this definition if the change would constitute a major source by itself;
- e. a major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone;
- f. the fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Section whether it is a *major stationary source*, unless the source is listed in Table A of this definition or, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

Table A – Stationary Sources of Air Pollutants	
1	Fossil fuel-fired steam electric plants of more than 250 million British thermal units (Btu) per hour heat input
2	Coal cleaning plants (with thermal dryers)
3	Kraft pulp mills
4	Portland cement plants
5	Primary zinc smelters
6	Iron and steel mill plants
7	Primary aluminum ore reduction plants
8	Primary copper smelters
9	Municipal incinerators capable of charging more than 250 tons of refuse per day
10	Hydrofluoric, sulfuric, and nitric acid plants
11	Petroleum refineries
12	Lime plants
13	Phosphate rock processing plants
14	Coke oven batteries

Table A – Stationary Sources of Air Pollutants	
15	Sulfur recovery plants
16	Carbon black plants (furnace process)
17	Primary lead smelters
18	Fuel conversion plants
19	Sintering plants
20	Secondary metal production plants
21	Chemical process plants
22	Fossil fuel boilers (or combinations thereof) totaling more than 250 million Btu per hour heat input.
23	Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
24	Taconite ore processing plants
25	Glass fiber processing plants
26	Charcoal production plants

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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 37:0000 (May 2011).

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