

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Offset Requirements and Emission Reduction Credits Banking (LAC 33:III.504, 601, 603, 605, 607, 615 and 619) (AQ327)

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, 601, 603, 605, 607, 615 and 619 (AQ327).

The Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) was formerly designated as nonattainment with respect to the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) of 0.08 parts per million (ppm). As such, increases of nitrogen oxides (NOX) and volatile organic compounds (VOC) emissions were governed by nonattainment new source review (NNSR) procedures provided by LAC 33:III.504. Under NNSR, prior to the construction of a new major stationary source or a major modification of an existing major stationary source, an owner or operator must obtain offsets for significant increases in emissions of NOX and VOC in the form of emission reduction credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

On November 30, 2011, the U.S. Environmental Protection Agency (EPA) redesignated the Baton Rouge area to attainment of the 1997 ozone NAAQS, effective December 30, 2011. At the same time, EPA approved LDEQ's ozone maintenance plan, which projected no net growth in point source NOX and VOC emissions in the five parish area through 2022. However, another ozone standard, with which the Baton Rouge area is not in compliance, will soon be implemented.

On March 27, 2008, EPA lowered the primary ozone NAAQS from 0.08 ppm to 0.075 ppm. This standard became effective on May 27, 2008. However, on September 16, 2009, the agency announced it would reconsider the NAAQS and therefore delayed implementation of the new standard. On January 19, 2010, EPA proposed that the NAAQS should be set within the range of 0.060 to 0.070 ppm. Then, on September 2, 2011, President Obama "requested that Administrator Jackson withdraw the draft Ozone National Ambient Air Quality Standards." Since the ongoing review of the ozone NAAQS will not be completed for several years, the EPA is now moving ahead with certain required actions to implement the 2008 standard. One such action is to designate areas as either attainment, nonattainment, or unclassifiable.

Based on air quality data from 2008 - 2010, LDEQ recommended to EPA that East Baton Rouge Parish be designated as nonattainment. By letter dated December 9, 2011, EPA informed LDEQ that, in addition to East Baton Rouge, the agency intends "to designate as nonattainment the parishes of Ascension, Iberville, Livingston, and West Baton Rouge" and "plans to promulgate final ozone designations in spring of 2012." On April 30, 2012, EPA issued a final rule entitled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes." This Rule formally designated the five parishes as nonattainment, effective July 20, 2012.

This Rule is necessary to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS and to mitigate increases of NOX and VOC emissions consistent with the area's approved ozone maintenance plan.

This Rule will also remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6. Currently, if the ozone design value for the Baton Rouge area is above the NAAQS for ozone, Chapter 6 requires LDEQ to compare the current total point-source emissions inventory, as defined in LAC 33:III.605.A, to the base line inventory associated with the 2005 Attainment Plan and Transport Demonstration SIP. The outcome of this comparison is used to determine baseline emissions for calculating the surplus emission reduction. However, the 2005 Attainment Plan and Transport Demonstration SIP has since been superseded by the 1997 8-Hour Moderate SIP Revision (Redesignation Package), which was approved by EPA on November 30, 2011 (76 FR 74000). As such, the relationship between the current total point-source emissions inventory and the base line inventory is no longer meaningful.

Finally, this Rule will allow for creditable reductions of criteria pollutants other than NOX and VOC to be banked. EPA promulgated a 1-hour NAAQS for SO₂ on June 22, 2010. Based on 2008 - 2010 monitoring data, LDEQ recommended that the parishes of St. Bernard and West Baton Rouge be designated as nonattainment. Major stationary sources located in these parishes will be subject to the provisions of Chapter 6 for the purpose of utilizing SO₂ emission reductions as offsets in accordance with LAC 33:III.504. The basis and rationale for this Rule are to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOX and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other than NOX and VOC to be banked. 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 September 26, 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 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 AQ327. Such comments must be received no later than October 3, 2012, 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 AQ327. 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. - A.1. ...

2. ~~Except as specified in Subsection M of this Section, t~~The potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Subsection L, Table 1 of this Section to determine whether the source is major.

3. ~~Except as specified in Subsection M of this Section, t~~The emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L, Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. - d. ...

4. ~~Except as specified in Subsection M of this Section, t~~The net emissions increase shall be compared to the significant net emissions increase values listed in Subsection L, Table 1 of this Section to determine whether a nonattainment new source review must be performed.

A.5. - D.4. ...

5. ~~Except as specified in Subsection M of this Section, e~~Emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Subsection L, Table 1 of this Section, in the area where the NAAQS for that pollutant is violated.

D.6. - F. ...

1. ~~Except as specified in Subsection M of this Section, o~~Offsets shall be required at the ratio specified in Subsection L, Table 1 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.

F.2. - L. ...

* * *

M. Offset Requirements in Specified Parishes. ~~Notwithstanding the major stationary source and major modification significant net increase threshold values and minimum offset ratios established by Subsection L, Table 1 of this Section, 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 ~~as long as each~~ if the parish's nonattainment designation with respect to the 8-hour national ambient air quality standard (NAAQS) for ozone is attainment, "marginal" nonattainment, or "moderate nonattainment."²²

1. ~~For an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x, consideration of the net emissions increase will be triggered for any project that would:~~

a. ~~increase emissions of VOC or NO_x by 25 tons per year or more, without regard to any project decreases;~~

b. ~~increase emissions of the highly reactive VOC (HRVOC) listed below by 10 tons per year or more, without regard to any project decreases:~~

i. ~~1,3 butadiene;~~

ii. ~~butenes (all isomers);~~

iii. ~~ethylene;~~

iv. ~~propylene.~~

2. ~~The following sources shall provide offsets for any net emissions increase:~~

a. ~~a new stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x;~~

b. ~~an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_x with a significant net emissions increase of VOC, including HRVOC, or NO_x of 25 tons per year or more.~~

3. ~~The minimum offset ratio for an offset required by Paragraph M.2 of this Section shall be 1.2 to 1.~~

1. New Stationary Sources. The owner or operator of a new stationary source shall provide offsets for potential VOC and NO_x emissions in excess of 50 tons per year.

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 25 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 25 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 25 tons per year or more of NO_x.

3. Offsets shall be required at a ratio of 1.1 to 1.

4. The provisions of this Subsection shall not apply to any new *major stationary source* or *major modification* as defined in Subsection K of this Section.

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), LR 38:**.

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits (ERC) Banking

§601. Purpose

A. This Chapter establishes the means of enabling stationary sources to identify and preserve or acquire emission reductions for New Source Review (NSR) offsets. ~~The pollutants to which this Rule applies are nitrogen oxides (NO_x) and volatile organic compounds (VOC).~~

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 20:874 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 38:**.

§603. Applicability

A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504. Minor stationary sources located in ~~ozone~~-nonattainment areas may submit ERC applications for purposes of banking. Sources located in EPA-designated ~~ozone~~-attainment areas may not participate in the emissions banking program. Any stationary point source at an affected facility is eligible to participate.

B. Notwithstanding Subsection A of this Section, sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge may participate in the emissions banking program for purposes of securing offsets where required by LAC 33:III.504.M.

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 20:874 (August 1994), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 38:**.

§605. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

Bankable Emission Reductions—reductions of ~~NO_x or VOC~~a criteria pollutant that meet the provisions of this Chapter at the time of review and approval.

* * *

Base Case Inventory—~~the aggregate point source emissions inventory for either NO_x or VOC from the nine modeled parishes, as modeled for the 2005 Attainment Plan and Transport Demonstration SIP dated December 2001, which includes 1997 actual emissions from point sources, banked ERC and pending ERC applications where the emission reduction~~

occurred between January 1, 1990 and December 31, 1997, and adjustments for growth. Separate inventories have been established for NO_x and VOC. Repealed.

Base Line Inventory—~~the aggregate point source emissions inventory for either NO_x or VOC from the nine modeled parishes associated with the 2005 Attainment Plan and Transport Demonstration SIP dated December 2001, which accounts for emission reductions modeled to demonstrate attainment of the 1-hour national ambient air quality standard (NAAQS) for ozone. Separate inventories have been established for NO_x and VOC.~~ Repealed.

* * *

Current Total Point-Source Emissions Inventory—~~the aggregate point source emissions inventory for either NO_x or VOC from the nine modeled parishes compiled from the emissions inventory records and updated annually in accordance with LAC 33:III.919 plus any banked ERC and pending ERC applications originally included in the base case inventory that have not expired.~~ Repealed.

* * *

Modeled Parishes—~~the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.~~ Repealed.

Offset—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing stationary point source, which is used to compensate for a significant net increase in emissions of NO_x or VOC from a new or modified stationary source in accordance with the requirements of LAC 33:III.504. To be valid, an *offset* must meet the definition of ERC.

* * *

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 20:874 (August 1994), LR 25:1622 (September 1999), LR 26:2448 (November 2000), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 34:1890 (September 2008), LR 37:3221 (November 2011), LR 38:**.

§607. Determination of Creditable Emission Reductions

A. - B.2. ...

C. Procedures for Calculating the Surplus Emission Reduction. The following procedures shall be used in calculating the quantity of surplus air emission reductions. ~~When considering NO_x reductions, only the NO_x inventory and ERC and pending ERC applications for NO_x will be considered. Conversely, when considering VOC reductions, only the VOC~~

inventory and ERC and pending ERC applications for VOC will be considered.

1. ~~If the design value for the nonattainment area is above the national ambient air quality standard (NAAQS) for ozone, the department shall compare the current total point source emissions inventory for the modeled parishes to the base case inventory, except that, beginning with the 2005 emissions inventory, this comparison shall be made to the base line inventory.~~Reserved.

2. - 3. ...

4. Quantify ~~b~~Baseline e~~Emissions as follows:~~ Baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section.

a. ~~— for stationary sources located in ozone nonattainment areas:~~

i. ~~— if the design value for the nonattainment area is above the NAAQS for ozone and the current total point source inventory for the modeled parishes exceeds the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions, adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section, or emissions attributed to the stationary point source(s) in question in the base case or base line inventory, as appropriate; or~~

ii. ~~— if the design value for the nonattainment area is not above the NAAQS for ozone or the current total point source inventory for the modeled parishes does not exceed the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section; and~~

b. ~~— for stationary sources located in ozone attainment areas, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section.~~

C.5. - D. ...

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 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:302 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1601 (September 2006), LR 33:2068 (October 2007), LR 38:**.

§615. Schedule for Submitting Applications

A. ...

B. If a parish is redesignated as ~~ozone~~-nonattainment by the EPA after January 1, 2012, applications for banking ERCs in such parish must be submitted by March 31 of the year following the effective date of the EPA designation.

C. - D. ...

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 20:878 (August 1994), amended LR 21:681 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), LR 26:486 (March 2000), LR 28:304 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 38:**.

§619. Emission Reduction Credit Bank

A. The department shall maintain a banking database that shall consist of a record of all information concerning applications, deposits, withdrawals, and transactions, as well as pertinent date(s) concerning such information. ~~The current total point-source emissions inventory for both NO_x and VOC shall also be included.~~ All data in the banking database shall be available to the public upon request.

B. - C. ...

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 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), LR 28:305 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 38:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ327

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: Offset Requirements and Emission
Baton Rouge, LA 70802 Reduction Credits Banking (LAC
33:III.504, 601, 603, 605, 607, 615,
& 619)
Date Rule
Takes Effect: Upon Promulgation

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)

There will be no costs 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 because 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).

This rule will require owners or operators of stationary sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge to provide offsets for certain projects that would increase emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOC) as long as 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.

The owner or operator of a new stationary source shall provide offsets for potential NO_x and VOC emissions in excess of 50 tons per year (TPY).

The owner or operator of an existing stationary source with a potential to emit of 50 TPY or more of NO_x shall provide NO_x offsets for each project that would result in a net emissions increase of 25 TPY or more of NO_x. Likewise, the owner or operator of an existing stationary source with a potential to emit 50 TPY or more of VOC shall provide VOC offsets for each project that would result in a net emissions increase of 25 TPY or more of VOC.

In all cases, offsets shall be required at a ratio of 1.1 to 1.

This rule will also remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6 and allow for creditable reductions of criteria pollutants other than NO_x and VOC to be banked.

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

The Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) was formerly designated as nonattainment with respect to the 1997 8-hour ozone NAAQS of 0.08 parts per million (ppm). As such, increases of NO_x and VOC emissions were governed by nonattainment new source review (NNSR) procedures provided by LAC 33:III.504. Under NNSR, prior to the construction of a new major stationary source or a major modification of an existing major stationary source, an owner or operator must obtain offsets for significant increases in emissions of NO_x and VOC in the form of emission reduction credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

On November 30, 2011, the U.S. Environmental Protection Agency (EPA) redesignated the Baton Rouge area to attainment of the 1997 ozone NAAQS, effective December 30, 2011. At the same time, EPA approved LDEQ's ozone maintenance plan, which projected no net growth in point source NO_x and VOC emissions in the five parish area through 2022.

At the present time NNSR provisions, including those requiring offsets for significant NO_x and VOC increases, are no longer mandated by the Clean Air Act (CAA). However, another ozone standard, with which the Baton Rouge area is not in compliance, will soon be implemented.

On March 27, 2008, EPA lowered the primary ozone NAAQS from 0.08 ppm to 0.075 ppm. This standard became effective on May 27, 2008. However, on September 16, 2009, the agency

announced it would reconsider the NAAQS and therefore delayed implementation of the new standard. On January 19, 2010, EPA proposed that the NAAQS should be set within the range of 0.060 to 0.070 ppm. Then, on September 2, 2011, President Obama “requested that Administrator Jackson withdraw the draft Ozone National Ambient Air Quality Standards.” Since the ongoing review of the ozone NAAQS will not be completed for several years, the EPA is now moving ahead with certain required actions to implement the 2008 standard. One such action is to designate areas as either attainment, nonattainment, or unclassifiable.

Based on air quality data from 2008 - 2010, LDEQ recommended to EPA that East Baton Rouge Parish be designated as nonattainment. By letter dated December 9, 2011, EPA informed LDEQ that, in addition to East Baton Rouge, the agency intends “to designate as nonattainment the parishes of Ascension, Iberville, Livingston, and West Baton Rouge” and “plans to promulgate final ozone designations in spring of 2012.” On April 30, 2012, EPA issued a final rule entitled “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes.” This rule formally designated the five parishes as nonattainment, effective 60 days after publication in the *Federal Register*.

This rule is necessary to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS and to mitigate increases of NO_x and VOC emissions consistent with the area’s approved ozone maintenance plan.

This rule will also remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6. Currently, if the ozone design value for the Baton Rouge area is above the NAAQS for ozone, Chapter 6 requires LDEQ to compare the current total point-source emissions inventory, as defined in LAC 33:III.605.A, to the base line inventory associated with the 2005 Attainment Plan and Transport Demonstration SIP. The outcome of this comparison is used to determine baseline emissions for calculating the surplus emission reduction. However, the 2005 Attainment Plan and Transport Demonstration SIP has since been superseded by the 1997 8-Hour Moderate SIP Revision (Redesignation Package), which was approved by EPA on November 30, 2011 (76 FR 74000). As such, the relationship between the current total point-source emissions inventory and the base line inventory is no longer meaningful.

Finally, this rule will allow for creditable reductions of criteria pollutants other than NO_x and VOC to be banked. EPA promulgated a 1-hour NAAQS for SO₂ on June 22, 2010. Based on 2008 - 2010 monitoring data, LDEQ recommended that the parishes of St. Bernard and West Baton Rouge be designated as nonattainment. Major stationary sources located in these parishes will be subject to the provisions of Chapter 6 for the purpose of utilizing SO₂ emission reductions as offsets in accordance with LAC 33:III.504.

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.

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?

There is no anticipated increase or decrease in costs to state agencies as a result of this proposed rule.

COSTS	FY 12-13	FY 13-14	FY 14-15
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.

There is no anticipated increase or decrease in costs associated with the proposed rule. No increase or reduction in workload or additional paperwork is anticipated.

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

SOURCE	FY 12-13	FY 13-14	FY 14-15
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 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, including adjustments in workload and paperwork requirements.

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

There are no costs or savings to local governmental units; therefore, no funding is needed.

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?

There will be no effect on revenue collections of state or local governmental units from the proposed rule.

REVENUE INCREASE/DECREASE	FY 12-13	FY 13-14	FY 14-15
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 revisions to LAC 33:III.504 apply to owners or operators of stationary sources located in the Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) with potential NO_x and/or VOC emissions of 50 tons per year (TPY) or more. The proposed rule revises three aspects of LAC 33:III.504.M.

1. With respect to new stationary sources, the existing rule requires owners or operators to offset potential NO_x and VOC emissions if such emissions equal or exceed 50 TPY. The proposed rule requires offsets for only the amount in excess of 50 TPY. In this way, the proposed rule is less stringent than the existing rule.
2. The existing rule establishes a minimum offset ratio of 1.2 to 1; the proposed rule sets the minimum offset ratio at 1.1 to 1. In this way, the proposed rule is less stringent than the existing rule.
3. The existing rule is applicable to stationary sources located in the aforementioned parishes only when the parish's designation with respect to the 8-hour ozone NAAQS is marginal nonattainment or moderate nonattainment. The proposed rule is applicable if the parish's designation is marginal nonattainment, moderate nonattainment, or attainment. However, the proposed rule will not be promulgated prior to the effective date of the Baton Rouge area's nonattainment designation under the 2008 8-hour ozone NAAQS.

The proposed revisions to LAC 33:III.Chapter 6 apply to owners or operators of stationary sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, and any other parish designated as nonattainment by EPA after January 1, 2012. Increases of nonattainment pollutants are governed by nonattainment new source review (NNSR) procedures provided by LAC 33:III.504. Under NNSR, prior to the construction of a new major stationary source or a major modification of an existing major stationary source, an owner or operator must obtain offsets for significant increases in emissions of the nonattainment pollutant(s) in the form of emission reduction credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

The proposed rule impacts the calculation of baseline emissions and, therefore, the portion of an emission reduction that is considered surplus. However, the proposed rulemaking cannot have the effect of reducing baseline emissions. As such, the balances of ozone season NO_x ERC, non-ozone season NO_x ERC, and VOC ERC each owner or operator holds or has applied for will not be negatively impacted.

In sum, there will be no effect on costs, including workload adjustments and additional paperwork, as a result of the proposed action.

- 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.

There will be no impact on receipts or income resulting from the proposed rule.

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 sectors resulting from the proposed rule.