

## NOTICE OF INTENT

Department of Environmental Quality  
Office of the Secretary  
Legal Division

### Definition of "Regulated New Source Review (NSR) Pollutant" (LAC 33:III.509) (AQ340ft)

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 regulation, LAC 33:III.509 (Log #AQ340ft).

This rule is identical to federal regulations found in 40 CFR 51.166(b)(49), 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 rule will revise the definition of “regulated new source review (NSR) pollutant” in LAC 33:III.509.B consistent with the corrected federal definition at 40 CFR 51.166(b)(49). On October 25, 2012, the Environmental Protection Agency (EPA) revised the definition of “regulated NSR pollutant” to correct “an inadvertent error made in 2008 when the EPA issued its rule to implement the New Source Review (NSR) program for fine particles with an aerodynamic diameter of less than or equal to 2.5 micrometers (PM<sub>2.5</sub>).” The revision to the federal rule “removes a general requirement in the definition of ‘regulated NSR pollutant’ to include condensable PM when measuring one of the emissions-related indicators for particulate matter (PM) known as ‘particulate matter emissions’ in the context of the PSD and NSR regulations.”

LDEQ adopted the provisions of the aforementioned 2008 rule (i.e., “Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)” – 73 FR 28321, May 16, 2008) on June 20, 2011 (AQ318). The basis and rationale for this rule are to revise the definition of “regulated new source review (NSR) pollutant” in LAC 33:III.509.B. 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.

A public hearing will be held on March 27, 2013, 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 AQ340ft. Such comments must be received no later than March 27, 2013, 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](mailto:deidra.johnson@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 AQ340ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://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.

Herman Robinson, CPM  
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.

\* \* \*

*Regulated New Source Review (NSR) Pollutant—*

a. - d. ...

e. ~~particulate matter (PM) emissions,~~ PM<sub>2.5</sub> emissions, and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for ~~PM,~~ PM<sub>2.5</sub>, and PM<sub>10</sub> in PSD permits. Compliance with emissions limitations for ~~PM,~~ PM<sub>2.5</sub>, and PM<sub>10</sub> issued prior to this date shall not be based on condensable particulate matter. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this Section.

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C. - 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 38:3163 (December 2012), LR 39:\*\*.