

## NOTICE OF INTENT

Department of Environmental Quality  
Office of the Secretary  
Legal Division

Deletion of the Significant Monitoring Concentration for PM<sub>2.5</sub>  
(LAC 33:III.509) (AQ357ft)

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 #AQ357ft).

This rule is identical to federal regulations found in 40 CFR 51.166 and 40 CFR 52.21, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. 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 delete the significant monitoring concentration (SMC) for PM<sub>2.5</sub> from Louisiana's Prevention of Significant Deterioration (PSD) program under LAC 33:III.509. LDEQ incorporated certain provisions of the Environmental Protection Agency's (EPA's) final rule entitled "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)," <sup>1</sup>including the SMC for PM<sub>2.5</sub>, into the Louisiana air quality regulations on December 20, 2012 (AQ328ft).

However, on January 22, 2013, the U.S. Court of Appeals for the D.C. Circuit found that EPA lacked the legal authority to adopt and use the PM<sub>2.5</sub> SMC to exempt permit applicants from the statutory requirement to compile and submit ambient monitoring data (*Sierra Club v. EPA*, No. 10-1413). Consequently, the vacated SMC for PM<sub>2.5</sub> was removed from the federal PSD rules, 40 CFR 51.166 and 40 CFR 52.21, on December 9, 2013, (78 FR 73698). At the same time, EPA also instructed permitting authorities to revise the numerical value of the PM<sub>2.5</sub> SMC to 0 µg/m<sup>3</sup> (or make equivalent changes) as soon as feasible. This rulemaking will delete the PM<sub>2.5</sub> SMC from LDEQ's PSD program.

The basis and rationale for this rule are to delete the SMC for PM<sub>2.5</sub> from Louisiana's PSD program under 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.

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<sup>1</sup>75 FR 64864, October 20, 2010

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 January 27, 2016, 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 AQ357ft. Such comments must be received no later than January 27, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. 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 AQ357ft. 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  
General Counsel

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 5. Permit Procedures**

**§509. Prevention of Significant Deterioration**

A. - 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 <sup>3</sup>	8-hour average
Nitrogen dioxide	14 µg/m <sup>3</sup>	annual average
Particulate matter	10 µg/m <sup>3</sup> of PM <sub>10</sub> 40 µg/m <sup>3</sup> of PM <sub>2.5</sub> <sup>1</sup>	24-hour average <del>24-hour average</del>
Sulfur dioxide	13 µg/m <sup>3</sup>	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 <sup>3</sup>	3-month average
Fluorides	0.25 µg/m <sup>3</sup>	24-hour average
Total reduced sulfur	10 µg/m <sup>3</sup>	1-hour average
Hydrogen sulfide	0.2 µg/m <sup>3</sup>	1-hour average
Reduced sulfur compounds	10 µg/m <sup>3</sup>	1-hour average

<sup>1</sup> No exemption is available with regard to PM<sub>2.5</sub>.

I.5.b. - 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), amended LR 37:1570 (June 2011), repromulgated LR 37:2146 (July 2011), amended by the Office of the Secretary, Legal Division, LR 38:3163 (December 2012), LR 39:1280 (May 2013), LR 42:\*\*.