



# Air Permits Update

Air & Waste Management Association  
Louisiana Section  
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*Bryan D. Johnston*  
LDEQ/Air Permits  
P: (225) 219-3450  
E: [bryan.johnston@la.gov](mailto:bryan.johnston@la.gov)





# Presentation Outline

- Current Rulemakings
- Anticipated Rulemaking to Allow for Inter-precursor Trading and Expand the Source Types from which Offsets Can Be Generated
- LDEQ's Regulation of GHGs under PSD
- EPA's Proposed CO<sub>2</sub> Standards for Existing EGUs
- An Abbreviated Day in the Life of Mike Vince



## AQ266 – Renewal of Minor Source Permits

This rule revision will establish a regulatory framework setting forth maximum terms and renewal procedures for minor source permits.

- Per R.S. 30:2023(A), permits “shall have, as a matter of law, a term of not more than ten years.”
- However, Louisiana’s air quality regulations are currently silent with respect to the term of minor source permits.



## AQ266 – Renewal of Minor Source Permits

Permits issued to a minor source shall have an effective term of 10 years, unless a shorter period is provided in the permit.

Any revision or reopening of the permit, *except for* administrative amendments and approvals to relocate, shall establish the start of a new permit term.

Any permit application that renews an existing permit shall be submitted at least 6 months prior to the date of permit expiration.



## AQ266 – Renewal of Minor Source Permits

The permit application to renew an existing permit that expires on or before **March 31, 2015**, shall be submitted in accordance with the schedule specified by LDEQ and published in the *Louisiana Register*.

- The **March 31, 2015**, date will likely be extended to a date 9 months after promulgation of the rule.
- In no event shall an owner or operator be provided less than 3 months to prepare a renewal application.



## AQ266 – Renewal of Minor Source Permits

For renewal applications due per the schedule specified by LDEQ, the **tentative** due dates are:

- **July 1, 2015**, for permits that were issued or last modified prior to January 1, 1999;
- **July 1, 2016**, for permits that were issued or last modified after January 1, 1999, but prior to January 1, 2003; and
- **July 1, 2017**, for permits that were issued or last modified after January 1, 2003, but prior to **(date that replaces March 31)**, 2005.



# AQ266 – Renewal of Minor Source Permits

## Rulemaking Schedule:

- Proposed September 20.
- Public hearing will be conducted on October 29 (this afternoon).
- Comment period closes on November 5 (next Wednesday).



## AQ349 – PM<sub>2.5</sub> SMC; PM<sub>10</sub>/SO<sub>2</sub>/NO<sub>x</sub>/CO SILs

This rule will delete the significant monitoring concentration (SMC) for PM<sub>2.5</sub>.

- On January 22, 2013, the D.C. Circuit found that EPA lacked the legal authority to exempt permit applicants from the statutory requirement to compile and submit ambient monitoring data (*Sierra Club v. EPA*, No. 10-1413).
- Applicants may continue to use data from an existing monitor if LDEQ determines its location is representative of background conditions in the area of the proposed project.



## AQ349 – PM<sub>2.5</sub> SMC; PM<sub>10</sub>/SO<sub>2</sub>/NO<sub>x</sub>/CO SILs

This rule will also add significant impact levels (SILs) for PM<sub>10</sub>, SO<sub>2</sub>, NO<sub>x</sub>, and CO.

- For a given pollutant, where the air quality impacts attributed to the proposed source or modification alone are less than a SIL, LDEQ may require refined modeling if such impacts could result in violations of a NAAQS or PSD increment.

Schedule:

- Proposed October 20.
- Public hearing will be conducted on November 25.
- Comment period closes on December 2.



## AQ346 – Regulatory Permit for Well Testing

The Regulatory Permit for Oil and Gas Well Testing currently limits operation of temporary separators, tanks, meters, and fluid-handling equipment to 10 operating days (§307.E).

This rule revision will allow the well testing equipment to be utilized for **45** days at horizontally-drilled wells completed with or without hydraulic fracturing.



## AQ347 – Definition of “Title I Modification”

The definition of “Title I modification” under §502.A could be interpreted to include both:

- the addition of a new NSPS-affected facility to a stationary source; *and*
- the modification of an existing facility at a stationary source (triggering an NSPS or a different NSPS).

Consistent with 40 CFR 60.2 and 60.14, this rule revision will clarify that “Title I modifications,” in the context of section 111 of the Clean Air Act, are limited to physical or operational changes to an existing facility.



## **AQ348 – Reg. Permit for Storage Vessels**

This rule will establish a regulatory permit for storage vessels, which can be used to authorize air emissions resulting from the storage of volatile organic liquids in tanks, reservoirs, containers, etc.



## Offsets and Banking

LDEQ will soon propose revisions to §504 and Chapter 6 allowing:

- for offset purposes, one ozone precursor ( $\text{NO}_x$  and VOC) to be substituted for another at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA.
  - This ratio can be no less stringent than as specified in Table 1 of §504 (currently 1.1 to 1); and
- reductions from mobile sources, *nonroad sources*, and *nonpoint sources* to be banked as ERC.



## Regulation of GHGs Under PSD

In *Utility Air Regulatory Group v. EPA*, decided June 23, 2014, the U.S. Supreme Court held that:

- EPA may not treat GHGs as a “pollutant for purposes of defining a ‘major emitting facility’ (or a ‘modification’ thereof) in the PSD context or a ‘major source’ in the Title V context.”
- EPA may treat GHGs as a “pollutant subject to regulation” for purposes of requiring BACT for “anyway” sources.



## Regulation of GHGs Under PSD

- EPA must justify its selection of a *de minimis* threshold below which BACT is not required (i.e., currently 75,000 TPY CO<sub>2</sub>e) “on proper grounds.”

The case has been returned to the D.C. Circuit.

- EPA will argue GHGs should be regulated as described in its July 24, 2014, memo – BACT is required at “anyway” sources when a significant net emissions increase (i.e.,  $\geq 75,000$  TPY CO<sub>2</sub>e) will result.
- Petitioners will argue that regulation of GHGs under PSD must be suspended until EPA promulgates a revised rule.



## Regulation of GHGs Under PSD

LDEQ will have to modify §§ 502 and 509, but will likely wait until the D.C. Circuit's decision to do so.

In the interim (in light of §501.C.14):

- LDEQ no longer requires Title V or PSD permits for Step 2 (i.e., non-“anyway”) sources.
- LDEQ will, however, continue to require “anyway” sources to apply BACT to new and modified sources of GHGs where a physical change or change in the method of operation will result in a net emissions increase of 75,000 TPY or more of CO<sub>2</sub>e.



## Proposed CO<sub>2</sub> Standards for Existing EGUs

On June 18, 2014, EPA proposed a rule pursuant to its authority under section 111(d) of the Clean Air Act which will require states to regulate CO<sub>2</sub> from existing electric generation units (EGUs).

- EPA refers to the proposal as its “Clean Power Plan.”

States can develop a state-only plan or collaborate with other states.

- Plans are due to EPA by June 30, 2016, though a one-year extension to June 30, 2017, may be granted “if justified.” A two-year extension is possible if LA was to collaborate with other states.



# Proposed CO<sub>2</sub> Standards for Existing EGUs

EPA has proposed a unique goal for each state.

<u>Louisiana</u>	<u>lb CO<sub>2</sub>/MWh</u>
2012 Baseline:	1466
2020-2029 Interim Goal:	948
2030 Goal:	883

In total, the 2030 goal represents a 40% reduction.

Note that this does not mean there will be a 40% decline in CO<sub>2</sub> emissions, but this figure is useful in comparing LA's obligations to those of other states.



## Proposed CO<sub>2</sub> Standards for Existing EGUs

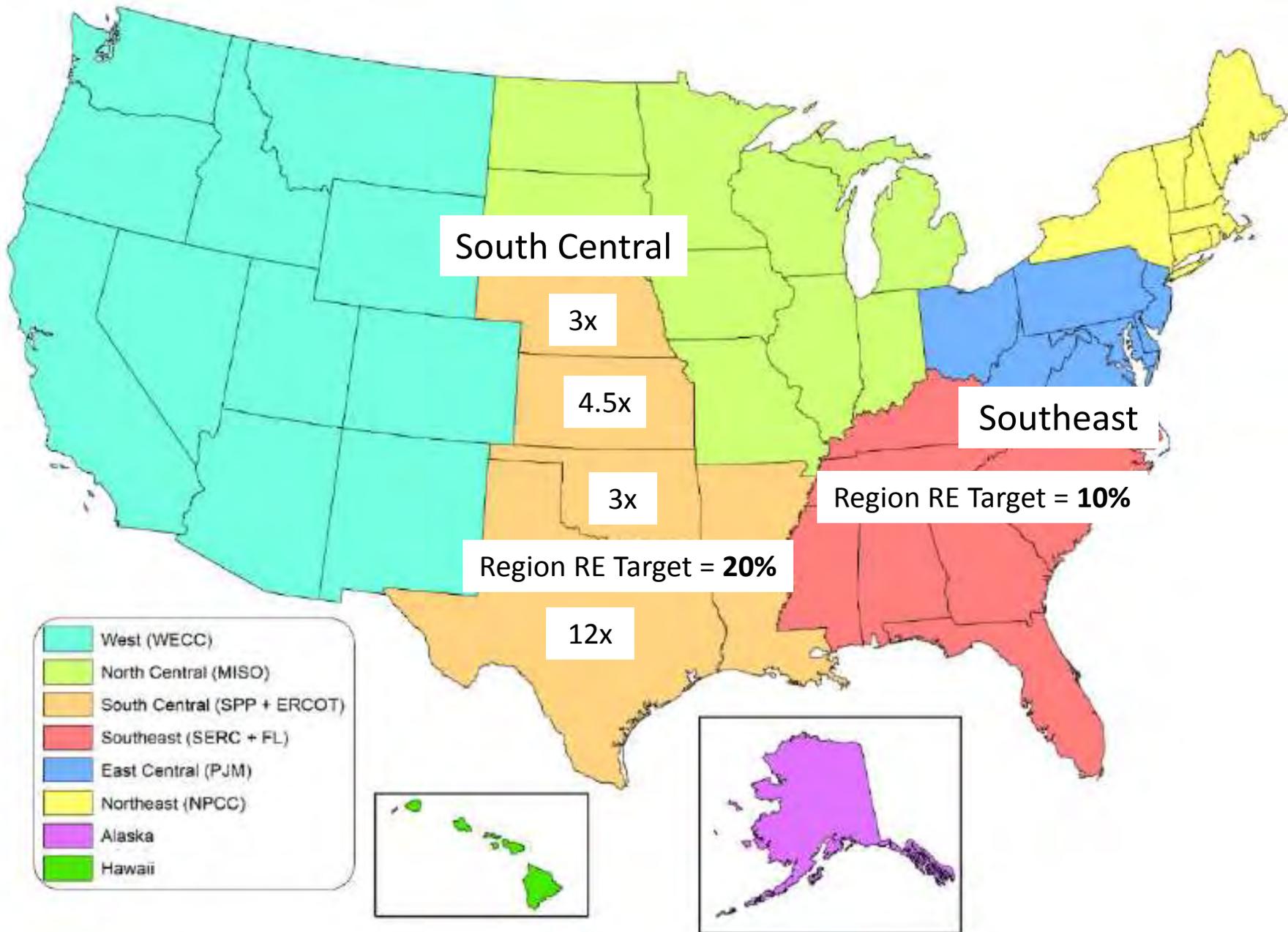
The rule describes 4 “building blocks” that together constitute the “best system of emission reduction” (at least as purported by EPA).

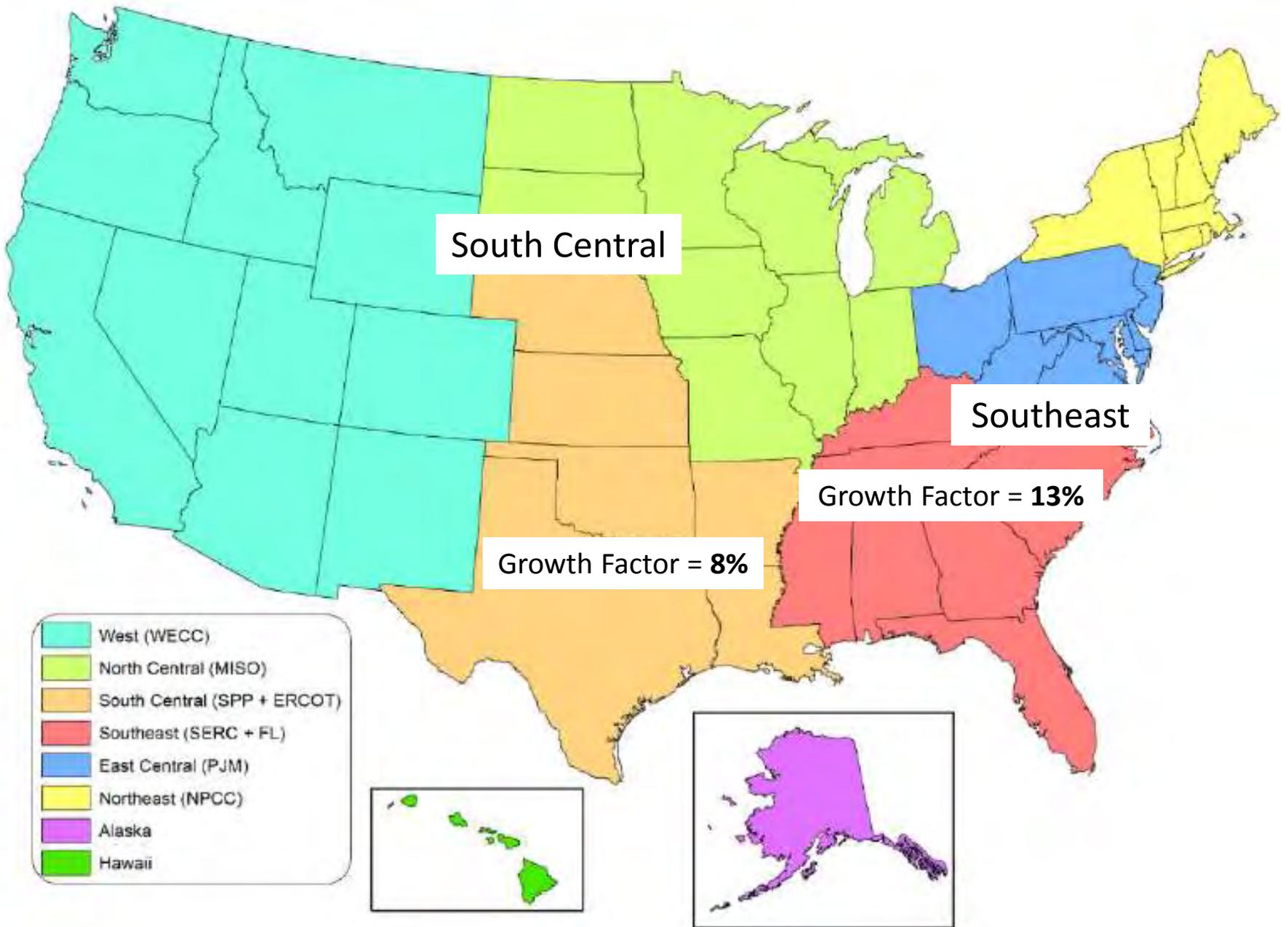
- A state can meet its goal via the measures that reflects its circumstances and policy objectives.
1. Increase efficiency of coal-fired power plants by 6%.
  2. Increase dispatch of natural gas combined cycle (NGCC) units to 70%, displacing electricity that would have otherwise been generated by coal or less efficient oil- or natural gas-fired boilers.



## Proposed CO<sub>2</sub> Standards for Existing EGUs

3. Increase utilization of or develop additional renewable energy (RE) sources (e.g., wind, solar, biomass).
  - LA's goal is based on the increased utilization of RE from about 2 to 7% of annual generation.
  - Goals are based on regional targets established by averaging the 2020 renewable portfolio standard (RPS) requirements of each state in a region.
4. Increase demand-side energy efficiency, thus reducing demand on power plants.







# Proposed CO<sub>2</sub> Standards for Existing EGUs

LDEQ provided initial comments to EPA on September 12, 2014.

1. LA has 3 NGCC units under construction (at Ninemile and Morgan City).
2. Entergy's LA Station 1 does not meet the definition of "affected EGU."
3. One of the 3 gas turbines at Entergy's Perryville Power Station is a simple cycle, not combined cycle, unit.
4. Washington Power Energy Center is neither constructed nor permitted.



## Proposed CO<sub>2</sub> Standards for Existing EGUs

5. EPA should use NGCC units' "net summer dependable capacity," not nameplate capacity, to calculate reductions associated with building block 2.
  - net capability of an EGU in MW for daily planning and operation purposes during the summer peak season, after accounting for station or auxiliary services

Inputs to EPA's Integrated Planning Model (IPM) are based on data in the National Electric Energy Data System (NEEDS). Unit capacity values in NEEDS reflect EGUs' net summer dependable capacity.



## Proposed CO<sub>2</sub> Standards for Existing EGUs

LDEQ is also preparing follow-up comments, which will argue, among other things, that the proposed rule:

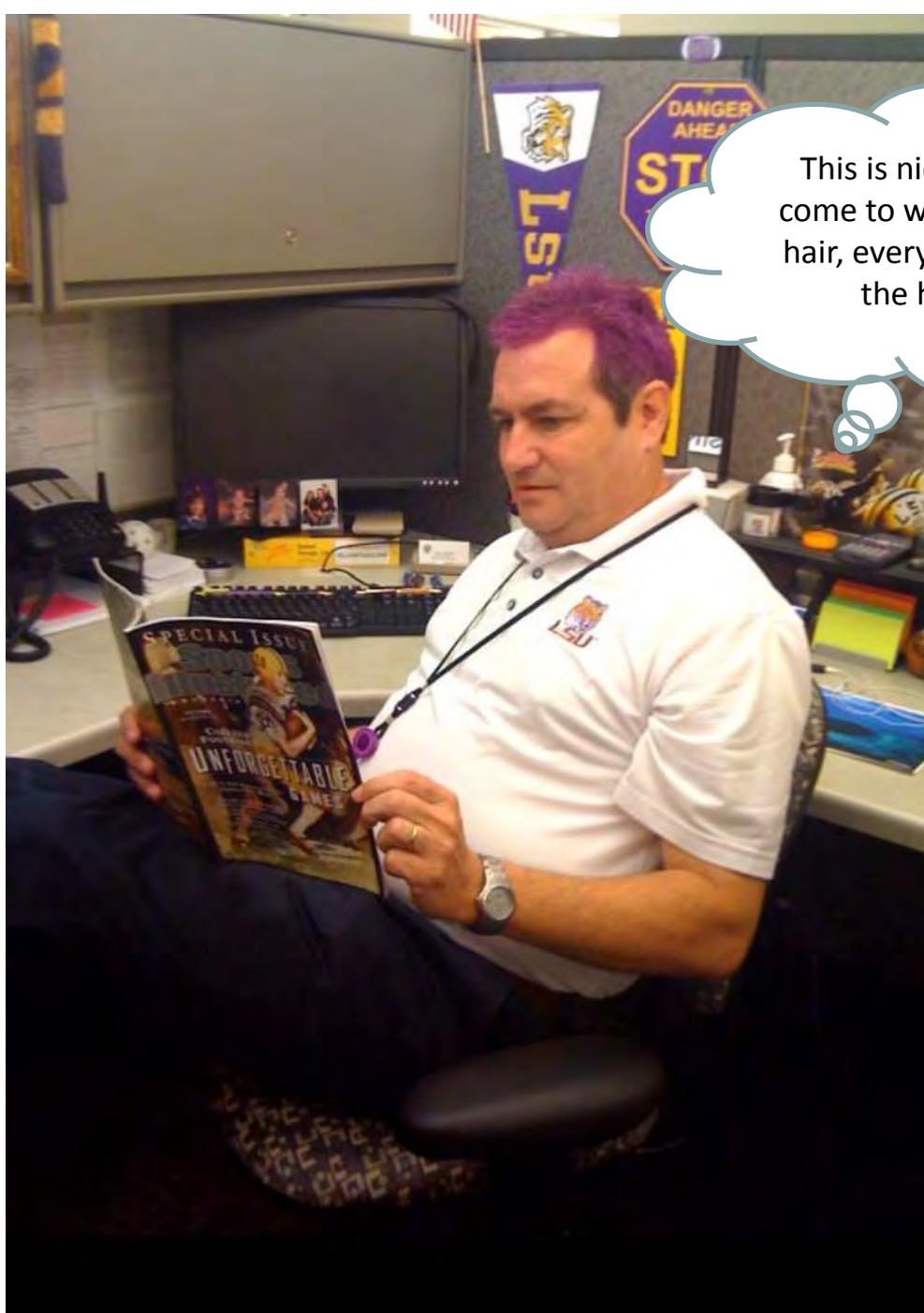
- exceeds the authority provided to EPA by section 111(d) of the Act;
- unfairly imposes vastly different percent reduction obligations on states;
- violates section 307(d) of the Act;
- detrimentally impacts the reliability of the electric grid in the SPP region;
- calculates the RE goal for the South Central region incorrectly;



# Proposed CO<sub>2</sub> Standards for Existing EGUs

Follow-up comments (cont.):

- is premature until EPA's finalizes its biogenic CO<sub>2</sub> accounting framework (i.e., is all biomass carbon-neutral?); and
- does not provide sufficient time to develop state plans or secure the necessary reductions.



This is nice. When you come to work with purple hair, everyone leaves you the hell alone.





# Questions / Comments?



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