



Air Permitting Update

A&WMA: Environmental Focus 2010
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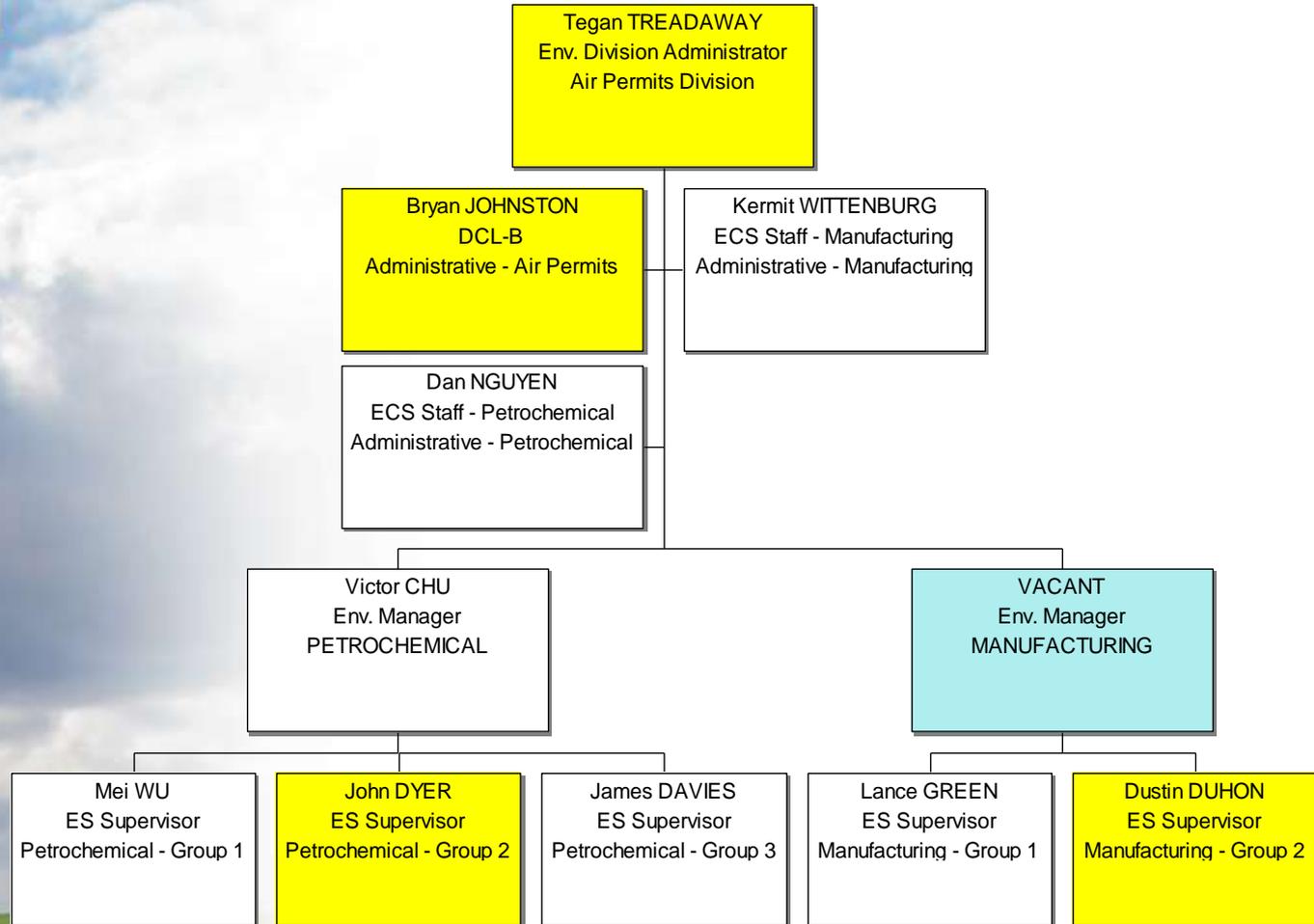
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Air Permits Division





Air Permits Division

Effective November 1, 2010, the following functional areas formerly in the Air Quality Assessment Division will move to the APD:

- Emissions Inventory
- Air Quality Planning (SIPs)
- Engineering Support
 - Air Modeling
 - Stack Testing



Rulemaking

AQ310 – Control of Emissions of Smoke

- Proposed June 21, 2010
- APD preparing Comment Summary Response & Concise Statement.

AQ311ft – PSD Significance Level for Direct PM_{2.5} Emissions

- Anticipated to be final in November.



Rulemaking

AQ314ft – Greenhouse Gas (GHG) Tailoring Rule

- Proposed October 20, 2010
- Establishes 75,000 TPY CO₂e PSD significance level and 100,000 TPY major source threshold, effective January 2, 2011, and July 1, 2011, respectively.
- Anticipated to be final in December, barring comments.



Rulemaking

AQ315 – Necessary Regulatory Revisions Prompted by GHG Regulation

- Anticipated to be proposed in December.
- Removes CO₂ from the list of pollutants that “need not be included in a permit application.”
- Revises a number of thresholds currently set in terms of “regulated pollutants” or “regulated air pollutants” to be based on emissions of criteria and toxic air pollutants.
- Will not address fees.



Rulemaking

PM_{2.5} NSR Implementation Rule

- Anticipated to be proposed in December.
- Federal rule promulgated May 16, 2008.
- States with SIP-approved PSD programs, like Louisiana, must submit revised PSD programs and revised NA NSR programs for PM_{2.5} by May 16, 2011.
- SO₂ and NO_x will be regulated as precursors to PM_{2.5}.
- Rulemaking will also require condensable PM to be addressed in applicability determinations and BACT limits.



Rulemaking

Nonroad Engines

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

- a general exemption for “nonroad engines” will be created under LAC 33:III.501.B.1;
- references to “exhaust emissions” from self-propelled mobile sources will be removed from Item B.4; and
- references to “transportable emissions units” will be removed from Item B.4.



Rulemaking

Act 103 (HB 1169) – Chapter 51

Compliance with an applicable federal standard under 40 CFR Part 61 or 63 constitutes compliance with the *entirety* of LAC 33:III.Chapter 51, not just MACT requirements:

- The above shall not apply to rules regarding the regulation and control of asbestos (LAC 33:III.5151).
- Affected sources shall be subject to annual emissions reporting requirements for TAP.



Rulemaking

Act 103 (HB 1169) – Chapter 51 (cont.)

- Ambient air standards (AAS) shall not apply to roads, railroads, or water bodies where activities are transient in nature and long-term exposure to emissions is not reasonably anticipated.
- AAS shall not apply to industrial properties, provided the affected source demonstrates that OSHA permissible exposure limits are not exceeded.



NSR & South Coast

On August 24, 2010, EPA proposed NSR anti-backsliding provisions for former 1-hour ozone nonattainment areas. In this action, EPA proposed to:

“make it clear that any 8-hour nonattainment area designated as 1-hour nonattainment as of the date of 1997 8-hour NAAQS designation must continue to apply NSR requirements consistent with that area’s 1-hour classification. Such areas cannot remove 1-hour major NSR requirements from their SIPs based solely on revocation of the 1-hour standard.”



NSR & South Coast

As a “supplemental proposal,” EPA requested comment on an “approach that would allow States to remove the 1-hour NSR requirements upon attainment of the 1-hour ozone NAAQS and satisfaction of other criteria.”

- ✓ On February 10, 2010, EPA determined that Baton Rouge has attained the 1-hour ozone NAAQS.
- ✓ On August 31, 2010, LDEQ submitted its final redesignation request to EPA.
- ✓ On September 9, 2010, EPA determined that Baton Rouge has attained the 1997 8-hour ozone NAAQS.



PM_{2.5}

Louisiana has not yet adopted the provisions of EPA's PM_{2.5} NSR Implementation Rule, but will do so prior to May 16, 2011.

In the interim, in light of "In the Matter of: Louisville Gas and Electric Company" and EPA's directive that permitting authorities must "demonstrate that PM₁₀ is a reasonable surrogate for PM_{2.5}," LDEQ is requiring applicants proposing PSD-significant increases in PM_{2.5} to conduct both BACT and modeling analyses.

- LDEQ is not, however, regulating SO₂ and NO_x as precursors.



PM_{2.5}

On September 30, 2010, EPA finalized a rule establishing PSD increments, significant impact levels (SILs), and a significant monitoring concentration (SMC) for PM_{2.5}.

- SIL = 1.2 $\mu\text{g}/\text{m}^3$

States must submit revised SIPs that incorporate the final PM_{2.5} increments within 21 months of promulgation of the rule.

- The final rule also notes that SILs and SMCs are “not required by the Act as part of an approvable SIP program.”



PM_{2.5}

Condensable Particulate

On or after January 1, 2011, “gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures” must be accounted for in applicability determinations and in establishing emissions limitations for PM, PM₁₀, and PM_{2.5} in PSD permits.



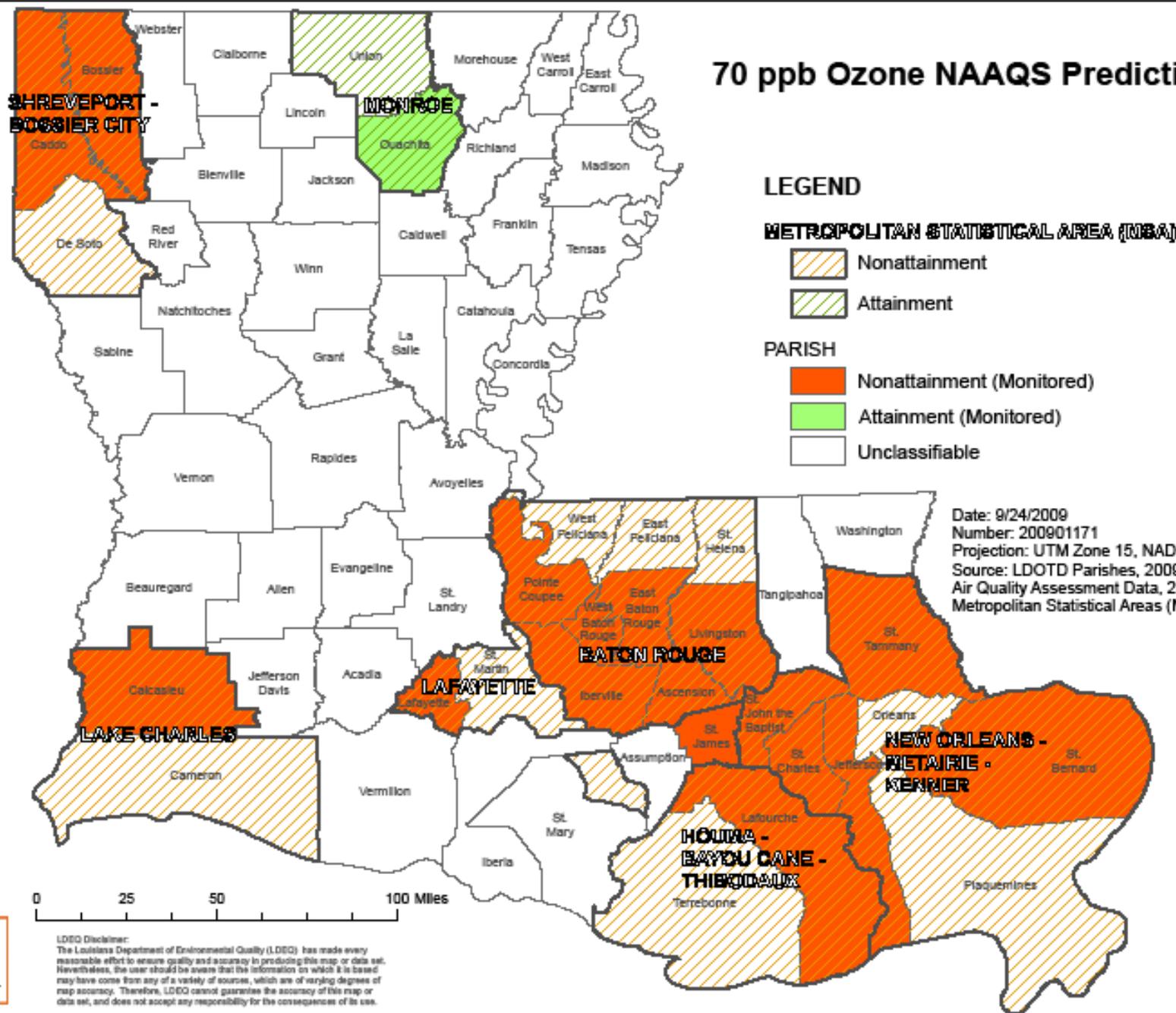
2010 Ozone NAAQS

On January 19, 2010, EPA proposed that the level of the 8-hour primary ozone NAAQS should be set within the range of 0.060 to 0.070 parts per million.

In a status report filed August 20, 2010, in the United States Court of Appeals for the D.C. Circuit, EPA stated the agency's "current schedule is to sign a final rule on the reconsideration of the 2008 Ozone standard on or about the end of October 2010."

At present, LDEQ does not know how an area's design value will correlate to its nonattainment classification.

70 ppb Ozone NAAQS Predictions

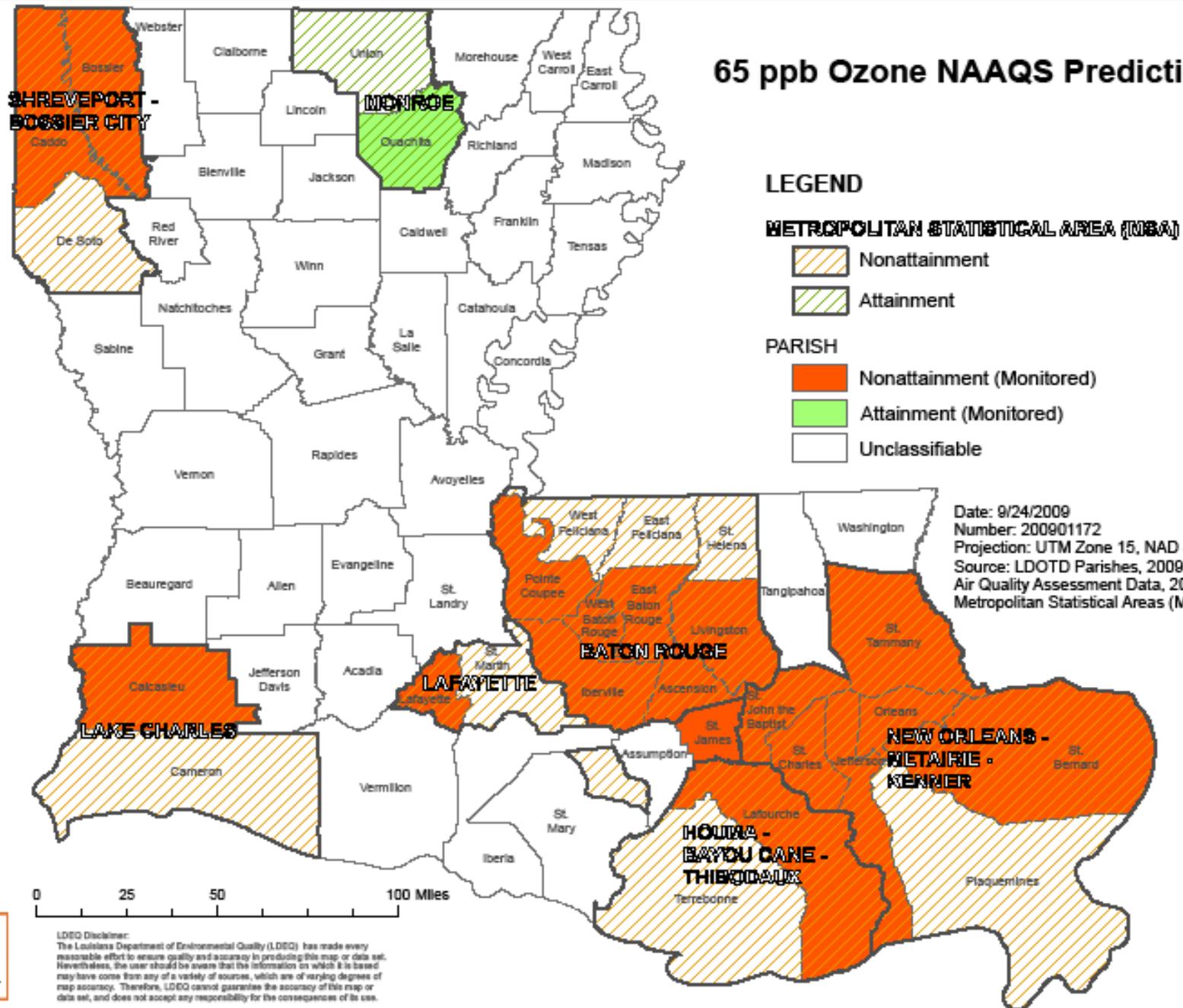


Date: 9/24/2009
 Number: 200901171
 Projection: UTM Zone 15, NAD 83
 Source: LDOTD Parishes, 2009 LDEQ OEA Air Quality Assessment Data, 2009 EPA Metropolitan Statistical Areas (MSA)



LDEQ Disclaimer:
 The Louisiana Department of Environmental Quality (LDEQ) has made every reasonable effort to ensure quality and accuracy in producing this map or data set. Nevertheless, the user should be aware that the information on which it is based may have come from any of a variety of sources, which are of varying degrees of map accuracy. Therefore, LDEQ cannot guarantee the accuracy of this map or data set, and does not accept any responsibility for the consequences of its use.

65 ppb Ozone NAAQS Predictions



Date: 9/24/2009
 Number: 200901172
 Projection: UTM Zone 15, NAD 83
 Source: LDOTD Parishes, 2009 LDEQ OEA
 Air Quality Assessment Data, 2009 EPA
 Metropolitan Statistical Areas (MSA)



0 25 50 100 Miles



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Ozone NAAQS and ERC Banking

LAC 33:III.504.F.2

All emission reductions claimed as offset credit must have occurred later than the date upon which the area was designated nonattainment.



Case-by-Case MACT Determinations

On March 30, 2010, EPA proposed a rule entitled “Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j).” In this action, EPA acknowledged that:

There has been confusion and uncertainty among some permitting authorities and sources as to how section 112(j) and EPA’s regulations implementing section 112(j) apply in the case of a complete vacatur of a section 112(d) rule establishing MACT standards, especially with respect to the timing of the application process.



Case-by-Case MACT Determinations

Four source categories are affected:

1. Polyvinyl Chloride and Copolymers Production
 2. Brick and Structural Clay Products Manufacturing
 3. Clay Ceramics Manufacturing
 4. Industrial, Commercial and Institutional Boilers and Process Heaters
- EPA is under court order to complete a final Boiler MACT rule by December 16, 2010.



Case-by-Case MACT Determinations

EPA has proposed that owners or operators submit permit applications the earlier of:

- 90 days after promulgation of these amendments, or
- the date by which the source's permitting authority has requested in writing a Section 112(j) Part 2 MACT application.

LDEQ has not requested Part 2 MACT applications from affected sources.



EPA Guidance Documents

April 1, 2010, memo from Stephen Page of OAQPS:

EPA generally interprets the CAA and EPA's PSD permitting program regulations to require that each final PSD permit decision reflect consideration of any NAAQS that is in effect at the time the permitting authority issues a final permit.



EPA Guidance Documents

- June 29, 2010, memo entitled “Guidance Concerning the Implementation of the 1-hour NO₂ NAAQS for the Prevention of Significant Deterioration Program”
- August 23, 2010, memo entitled “Guidance Concerning the Implementation of the 1-hour SO₂ NAAQS for the Prevention of Significant Deterioration Program”



GHG Permitting

Is it to protect us from the “threat of carbon pollution” (EPA), or is it EPA’s plan for “centralized control of industrial development” (TCEQ)?

Tailoring Rule (Step 1) – Beginning January 2, 2011

- BACT for GHGs will apply if PSD is triggered for a non-GHG pollutant and GHGs, calculated in terms of CO₂e, increase by 75,000 TPY or more.



GHG Permitting

Tailoring Rule (Step 2) – Beginning July 1, 2011

- Major source threshold of 100,000 TPY CO₂e becomes effective.
- PSD: All new and modified major sources proposing a net increase of $\geq 75,000$ TPY CO₂e, regardless of non-GHG emissions.
- Title V: New major sources must submit applications by July 1, 2012.



GHG Permitting

BACT Guidance: Don't sweat it ... it's coming.

EPA has committed to “actively developing BACT policy guidance for GHGs that will undergo public notice and comment, and will culminate in training courses for state, local, and tribal permitting authorities,” including “technical guidance and database tools” that “will be issued by the end of 2010.”*

*75 FR 31526, 31589



Air Permitting Update: Part 2

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Minor Source General Permits

Surface Coating & Fabrication

- Effective December 1, 2009.
- Authorizes construction, operation, and modification of surface coating and fabrication facilities that meet eligibility requirements.
- Eligible facilities are typically classified under SIC codes beginning with 34, 35, 36, or 37.



Minor Source General Permits

Crude Oil and Natural Gas Production

- Effective September 15, 2010.
- Authorizes construction, operation, and modification of crude oil and natural gas production facilities that meet eligibility requirements.
- Facilities with emissions below prescribed thresholds may begin construction and operation 14 days after submittal of an application.



Minor Source General Permits

In order to request coverage under a general permit, an applicant should submit:

- an “Application for Approval of Emissions of Air Pollutants from Minor Sources,”
- a “General Permit Applicability Questionnaire,” and
- the appropriate permit application fee.

An application to modify a site-specific air permit may also be used to request coverage under a general permit, provided that the “General Permit Applicability Questionnaire” accompanies the application.



Minor Source General Permits

Emissions Limitations (General Condition I)

Each general permit sets forth maximum facility-wide emissions. Potential emissions must be below these thresholds in order to qualify.

Site-specific emissions limitations are established by the application requesting coverage under the general permit.



Minor Source General Permits

Emissions Limitations (General Condition III)

If emissions from an emissions unit are subsequently determined to be greater than those disclosed in a permit application, but potential emissions remain within facility-wide limits, the owner or operator:

- shall submit a revised application as soon as practicable, but no later than 30 calendar days after discovery of the discrepancy.
- is not required to submit a report pursuant to General Condition XI **unless** an underlying federal or state standard has been violated (e.g., NSPS limit).



Minor Source General Permits

Emissions Limitations (General Condition III)

If emissions from an emissions unit are subsequently determined to be greater than those disclosed in a permit application, and potential emissions exceed a facility-wide limitation, the owner or operator:

- must submit a report pursuant to General Condition XI; and
- reduce potential emissions below facility-wide limits; or
- apply for a site-specific permit.



SOGA Permits

In light of the Minor Source General Permit for Crude Oil and Natural Gas Production, Standard Oil and Gas Air (SOGA) permits are no longer being issued.

An owner or operator, however, may continue to operate and modify any facility currently permitted under a SOGA permit:

- as long as the facility remains eligible for the SOGA permit; or
- until otherwise notified by LDEQ.



Regulatory Permits

The Air Permits Division now offers 5 regulatory permits:

- Oil & Gas Well Testing
- Release of Natural Gas from Pipelines and Associated Equipment
- Emergency Engines
- Portable Air Curtain Incinerators
- Concrete Manufacturing Facilities

In the works: Concrete Crushers, Flaring of Refined Products



Litigation

The State of Louisiana and/or LDEQ is now party to four federal suits related to air permitting.

1-Hour SO₂ NAAQS

- Motion to Intervene filed by the State of LA/LDEQ on September 22, 2010.



Litigation

GHG Endangerment Finding

- Motion to Intervene filed by State of LA on March 18, 2010.

GHG Tailoring Rule

- Petition for Review filed by LDEQ on August 2, 2010.

Reconsideration of the Johnson Memo

- Motion to Intervene filed by LDEQ on August 2, 2010.
- The motion, in the alternative, provided notice of LDEQ's intent to file an amicus brief.



Applications

Title V Minor Modifications

APD has prepared a separate optional application (“paperwork reduction format”) which can be used to request Title V minor modifications.

- Based on a series of introductory questions, certain sections of the application are automatically excluded from the electronic file.



Applications

The applications are also being revised to:

- add “Minor Source General Permit” as a type of permit that can be requested;
- remove SOGA permits as a potential option; and
- incorporate modifications to the EIQ necessary to address GHGs and to determine applicable requirements under NSPS IIII & JJJJ and MACT ZZZZ.



Permit Procedures Manual

APD will update the “Louisiana Guidance for Air Permitting Actions” to address new regulatory programs and rule revisions enacted since the current version of the manual was released.

- $PM_{2.5}$
- Condensable particulate
- GHGs
- Nonattainment Areas



Online Services

LDEQ's Information Services (IS) Division has developed a functionality that allows the real-time status of permit applications to be viewed on-line.

The TEMPO Air Requirements Library can now be accessed from the APD's webpage.

Online Permitting:

- Interface for the Oil & Gas Well Testing Regulatory Permit is in final testing.
- Other Regulatory Permits to follow.



Questions / Comments?

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