

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATE OF LOUISIANA,
LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY, and
LOUISIANA PUBLIC SERVICE
COMMISSION,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

Case No. _____

PETITION FOR REVIEW

DECLARATION OF SANFORD L. PHILLIPS

I, Sanford L. Phillips, do hereby declare under the penalty of perjury, pursuant to 28 U.S.C. §1746, as follows:

1. I have been appointed by the Governor of the State of Louisiana to serve as the Assistant Secretary for the Office of Environmental Services, Louisiana Department of Environmental Quality (LDEQ).
2. The LDEQ Office of Environmental Services is responsible for, among other things: the making of air permit decisions; the review of the promulgation of the Cross State Air Pollution Rule (CSAPR), including the administrative



record; and the operation and implementation of the Emissions Reporting and Inventory Center (ERIC). ERIC consists of a database of annually reported actual emissions of air pollutants submitted by the source of the pollutant emissions.

3. The LDEQ permitting process is required prior to the necessary construction and operation of any activity that results in the increase of air pollutants. Applications for Prevention of Significant Deterioration and Title V permits, including major modifications, typically require 3 to 6 months to process.
4. LDEQ regulations require large stationary sources of emissions of air pollutants report the annual totals of monitored emissions results or estimates or calculations of actual emissions of pollutants from the source.
 - a. The report of emissions must be submitted to the LDEQ on an annual basis.
 - b. The report of emissions include six pollutants, known as “criteria pollutants” for which the United States Environmental Protection Agency (USEPA) has established a National Ambient Air Quality Standard (NAAQS), namely nitrogen oxides (NO_x), sulfur dioxide (SO₂), ozone, lead (Pb), carbon monoxide (CO) and both fine grain and coarse grain particulate matter (PM_{2.5} and PM₁₀).

- c. The report of emissions is certified by the sources to be true and accurate under penalty of law.
5. The submittal of the sources' emissions is downloaded into the LDEQ ERIC.
6. The LDEQ is able to run queries of ERIC in order to total emissions from various sources, for particular time periods and for particular pollutants.
7. In the development of CSAPR, EPA made changes to the model inputs from the proposed to the final projected 2012 and 2014 emissions inventory for Louisiana.
8. The EPA's 2014 remedy results demonstrated emissions levels below which Louisiana no longer significantly affected monitors located in the Houston nonattainment area. Further, Louisiana has data to show that NO_x reductions were already below the indicated level required to cure the "significant contribution and interference with maintenance" determination.
9. As a result, Louisiana has not had an opportunity to comment that it should not be included as a "significant contributor" to any of its linked monitors, and therefore should not be included in the Rule.
10. As part of the LDEQ's Request for Reconsideration and Stay, and Petition for Judicial Review of the Cross State Air Pollution Rule (CSAPR), a determination of the NO_x emissions from stationary sources reported to the

LDEQ for the years 2008, 2009 and 2010 was requested with the following results:

	LA Emissions Inventory		
Year	2008	2009	2010
Total Point NO_x*	184,059	163,821	170,224

*total point is EGU plus non EGU sources

- When LDEQ compared the projected CSAPR emissions levels to current Louisiana emissions inventories, the results showed that Louisiana's total current NO_x emissions were less than the 2014 remedy totals. The following table shows actual Louisiana NO_x emissions from the emissions inventory compared to the available CSAPR inventories.

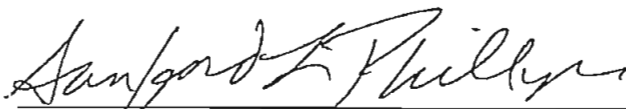
	CSAPR			LA Emissions Inventory		
Year	2005	2012	2014	2008	2009	2010
Total Point NO_x*	227,757	185,785	182,042	184,059	163,821	170,224

*total point is EGU plus non EGU sources

- As shown above, Louisiana has achieved emissions reductions for both EGU and non-EGU sources greater than that anticipated by CSAPR.
- Since Louisiana has achieved the emissions reductions from both EGU and non-EGU sources, further inclusion in CSAPR will require Louisiana EGUs to make additional emissions reductions that are unnecessary to satisfy the regulatory goal.
- Louisiana has submitted the 2008 and 2009 emissions inventories to the National Emissions Inventory ("NEI").

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

EXECUTED this 5th day of October, 2011 at Baton Rouge,
Louisiana.


Sanford L. Phillips