



March 18, 2026

Submitted via Email to officesec@la.gov

Courtney J. Burdette, Secretary
Louisiana Department of Environmental Quality
602 N. Fifth Street
Baton Rouge, LA 70802

RE: Review of LDEQ's Effort to Address Modeled NAAQS Violations in Major Source Permitting; Request for Meeting

Dear Secretary Burdette:

We write on behalf of our clients RISE St. James, Vessel Project of Louisiana, For a Better Bayou, Deep South Center for Environmental Justice, Healthy Gulf, and Louisiana Bucket Brigade ("Petitioners"). Petitioners request a meeting with you to discuss LDEQ's mandate and plan to remedy modeled National Ambient Air Quality Standards (NAAQS) violations in the state, a plan LDEQ outlined in a letter to EPA on August 15, 2023 ("August 2023 Letter," attached as Exhibit A).¹ That plan came in response to EPA Region 6's call for LDEQ to take action on this issue, as set forth in correspondence to LDEQ dated February 1, 2023, yet Petitioners understand the plan remains incomplete. Petitioners represent residents of communities across south Louisiana concerned about air quality who have a deep stake in LDEQ completing its work to mitigate NAAQS exceedances to protect their health and local environment.² Petitioners hope to find common ground with your administration to complete this important work. To that end, we have reviewed the steps LDEQ has taken to date and attach an expert air modeling report as Exhibit B that outlines what LDEQ must do to finish the job for the facilities thus far considered.

I. LDEQ acknowledged its responsibility to investigate and remedy modeled NAAQS violations, but fell far short in implementing its plan to do so.

As LDEQ agreed in its August 2023 letter, the Clean Air Act obligates the agency to cure modeled NAAQS violations documented in PSD permit applicants' air quality analysis modeling, including by reducing any existing culpable source's emissions limits. This is true

¹ EPA Region 6 provided the August 2023 Letter to Petitioners on April 15, 2024, together with EPA Region 6's February 1, 2023, email that the August 2023 Letter responded to. All three correspondences are included at [Exhibit A](#) and are also available at <https://earthjustice.org/wp-content/uploads/2026/01/24-4-15-epa6-letter-re-sils-petition.pdf>.

² See, e.g., Pet. to EPA for Action regarding Deficiencies in La. and Tex. Clean Air Act Programs by Abusing Significant Impact Levels (May 30, 2023), <https://earthjustice.org/wp-content/uploads/2023/05/petition-epa-under-caa-title-vi-re-sils.pdf>.

regardless of whether LDEQ also opts to rely on Significant Impact Levels to grant a PSD permit to the applicant.³ EPA Region 6 has confirmed and asked LDEQ to act on the obligation to safeguard the NAAQS repeatedly over the years.⁴

In the August 2023 letter, LDEQ committed to EPA that the state would request further air quality modeling from a handful of facilities, primarily in South Louisiana, whose past air modeling had shown NAAQS violations, and that it would investigate and resolve similar new permitting matters on an ongoing basis. LDEQ said it was seeking at least three points of information from each facility:

[1] a figure mapping the location of each modeled exceedance; [2] a table listing each modeled exceedance, including the receptor location, time of exceedance, and modeled concentration; and [3] a culpability analysis listing the primary contributors to the modeled exceedance, including modeling inputs and outputs for the contributing sources.⁵

LDEQ would then “evaluate the data for each case to assess the reasons for the modeled exceedances” and conduct further refined modeling as appropriate.⁶ If LDEQ found the modeled exceedances persisted following this review, “LDEQ [would] consider whether a reduction in allowable emissions for any contributing source may be appropriate.”⁷ Moreover, LDEQ committed to integrate similar investigations directly into its major source permitting process for pending and future permitting actions.⁸

But more than two years later, LDEQ has yet to fully implement its own plan to act, and new major sources continue to enter and build in areas of the state with modeled NAAQS violations. On February 13 and 14, 2025,⁹ Earthjustice submitted public records requests to LDEQ, asking for any records relating to the February 1, 2023 letter or LDEQ's work otherwise to study and alleviate modeled NAAQS violations. On April 22, 2025,¹⁰ LDEQ provided responsive records, mostly raw modeling files that indicated LDEQ had followed through on seeking the three points of information from nine facilities (likely those LDEQ referenced in the August 2023 Letter whose past air modeling showed NAAQS violations). However, the data the facilities provided rarely, if at all, satisfied the request or could otherwise serve to assure that where LDEQ relied

³ See Memo of G. Emison, Director Office of Air Quality Planning and Standards, “Air Quality Analysis for Prevention of Significant Deterioration (PSD),” 2 (July 5, 1988), <https://www.epa.gov/sites/default/files/2015-07/documents/reaffirm.pdf>; see also 42 U.S.C. § 7410(a)(2)(C); LAC 33.III.705.A (requiring LDEQ to administer SIP to ensure compliance with NAAQS).

⁴ See, e.g., EPA Email to LDEQ re Air Permit Modeling Evaluations for NSR Permitting, pdf pp. 5–6 (Feb. 1, 2023), *supra* note 1 and at Exh. A; EPA Comments submitted to LDEQ re: Nucor Steel Louisiana, pdf pp. 10 of 11, AI No. 157847, EDMS Doc. No. 7830225 (Jan. 7, 2011), <https://edms.deq.louisiana.gov/app/doc/view?doc=7830225>.

⁵ August 2023 Ltr. at 3, *supra* note 1.

⁶ *Id.* at 3.

⁷ *Id.* at 4.

⁸ *Id.*

⁹ Earthjustice submitted a follow up Public Records Act request on November 4, 2025, repeating the request for any additional materials. LDEQ responded on November 6, 2025, stating that there were no new responsive records.

¹⁰ The April 22, 2025, records were provided by electronic link to an online file sharing system. Due to access issues, LDEQ resent the records in electronic format on compact discs that Earthjustice received on June 4, 2025.

on Significant Impact Levels to permit a major new source, the modeled exceedances were not indicative of any existing or anticipated future actual NAAQS exceedance or to permit LDEQ to take action to eliminate or prevent any such exceedance if necessary. Moreover, there were no records showing further actions LDEQ took after getting this initial dataset. In fact, it appears the agency did nothing further and the data remains both incomplete and unacted upon.

Moreover, it appears that LDEQ has taken no steps to integrate similar investigations into its process for pending and future major source permitting actions.¹¹

II. Recommendations on how LDEQ should fulfill its obligation to remedy modeled NAAQS violations.

Petitioners urge you to make completing this promised work a priority in your administration. To assist in that effort, attached as Exhibit B to this letter is the expert report of Steven Klafka (with accompanying affidavit and *curriculum vitae*). Klafka is an environmental engineer with over 40 years of experience in permitting under the Clean Air Act, including air modeling for NAAQS compliance. He reviewed the files we obtained from LDEQ. In his report, Klafka provides his expert opinion on the deficiencies in the data LDEQ has collected from the facilities so far and what LDEQ should do to move forward with its obligations to resolve the modeled NAAQS violations. Klafka found several concerning shortcomings in the facilities' responses:

- 1) The modeling is often out of date and not intended to address NAAQS violations throughout the surrounding area. Several of the nine facilities failed even to provide updated modeling as LDEQ requested. Rather, most facilities simply re-submitted the same modeling they previously produced in PSD permitting or federal licensing. Meanwhile, even the more responsive facilities' new data had other serious flaws impeding the use of that data to identify and remedy surrounding NAAQS violations.
- 2) Most of the nine facilities failed to produce any culpability analysis whatsoever to show which third-party sources might be responsible for NAAQS violations. And none addressed violations throughout the modeling domain, focusing instead, if at all, on a much narrower area where only the source's own emissions exceeded the relevant Significant Impact Level. This contradicts LDEQ's Clean Air Act obligation and prevents LDEQ from the task of reducing emissions at sources responsible.
- 3) In contrast to LDEQ's air modeling guidance, virtually no facility provided modeling data extending to 50 km from the source.¹² The only exceptions are for one pollutant standard, 1-hour NO₂, and only by two facilities, FG LA, LLC and Sabine Pass LNG. Those facilities' analyses, however, included other inadequacies.

¹¹ See August 2023 Ltr. at 4, *supra* n.1.

¹² See LDEQ, *Air Quality Modeling Procedures* 2-4 (Aug. 2006 upd.), <https://www.deq.louisiana.gov/assets/docs/Air/ModelingProcedures0806.pdf>; see also 40 C.F.R. Part 51, App'x W § 4 (specifying that AERMOD produces accurate results at a radius of up to 50 kilometers).

- 4) No facility produced modeling for the current PM_{2.5} annual NAAQS of 9 µg/m³, and we found no record that LDEQ requested any such modeling after this NAAQS took effect on May 6, 2024.
- 5) No facility updated their modeling analyses to include refined, more closely-spaced receptor grids surrounding areas with NAAQS violations, also in contrast to LDEQ's relevant air modeling guidance.¹³

As mentioned, we are not aware of any further action LDEQ has taken since receiving these deficient responses. In his report, Klafka outlines the steps necessary for LDEQ to complete its review consistent with Clean Air Act modeling protocols. In addition, LDEQ must expand the scope of its plan to include remediating additional or newly modeled NAAQS violations.

We welcome further discussion with you on this matter and request a meeting at your offices. Please let us know dates when you could be available to meet before May 1, 2026. Please do not hesitate to reach out to us with questions or comments in the meanwhile.

Sincerely,



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¹³ LDEQ, *Air Quality Modeling Procedures 5-7* (Aug. 2006 upd.),
<https://www.deq.louisiana.gov/assets/docs/Air/ModelingProcedures0806.pdf>.