

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

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 adopt the Hazardous Waste regulations, LAC 33:V.625, 630, 635, 660, and 717 (Log #HW073).

In order to maintain delegation to operate the hazardous waste program in Louisiana in lieu of EPA, or to become delegated for previously undelegated activities, the state must adopt regulations equivalent to federal regulations. Federal regulations promulgated in part 40 of the CFR on November 30, 1998, contain certain provisions which conflict with state statutes, specifically, the process to approve or deny a remedial action plan (RAP) application; the effective date of a RAP; when to begin physical construction; appeal of the decision to deny a modification or revocation; and reissuance or termination of a RAP. This proposed rule replaces the federal requirements with equivalent state requirements that comply with the state statutes. In addition, the rule removes redundant state requirements for public notices for hazardous waste activities. The basis and rationale for this proposed rule are to maintain an equivalent RCRA Subtitle C program.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 24, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW073. Such comments must be received no later than May 1, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing

information. Check or money order is required in advance for each copy of HW073.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 5. Permit Application Contents

Subchapter G. Remedial Action Plans (RAPs) – General Information

' 625. May the Decision to Approve or Deny My RAP Application Be Administratively Appealed?

A. You may request an administrative hearing on a decision by the administrative authority to grant or deny your RAP application, under R. S. 30:2024. If the secretary does not grant your hearing request within 30 days of filing, you are entitled to file an application for *de novo* review of the secretary's action in the Nineteenth Judicial District Court.

B. An aggrieved person [as defined in R. S. 30:2004 (17)] may appeal a final decision on your RAP to the Nineteenth Judicial District Court, under R. S. 30:2050.21. Such an appeal would not suspend the effectiveness of the RAP, if one is issued. However, the secretary may grant, or the court may order, a stay of the RAP decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26: **

' 630. When Does My RAP Become Effective?

A. Your RAP becomes effective 30 days after the administrative authority notifies you and all commenters that your RAP is approved unless:

1. the administrative authority specifies a later effective date in the decision;
2. review is requested under R.S. 30:2024; or
3. no commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

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' 635. When May I Begin Physical Construction of New Units Permitted Under the RAP?

You must not begin physical construction of new units permitted under the RAP for treating, storing, or disposing of hazardous remediation waste before receiving a RAP which is effective under the terms of LAC 33:V.630.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26: **

' 660. May the Decision to Approve or Deny a Modification, Revocation and Reissuance, or Termination of My RAP be Administratively Appealed?

A. You may request an administrative hearing on a decision by the administrative authority to grant or deny a modification, revocation and reissuance, or termination of your RAP under R. S. 30:2024. If the secretary does not grant your hearing request within 30 days of filing, you are entitled to file an application for *de novo* review of the secretary's action in the Nineteenth Judicial District Court.

B. An aggrieved person [as defined in R. S. 30:2004 (17)] may appeal a final decision on your RAP to the Nineteenth Judicial District Court, under R. S. 30:2050.21. Such an appeal would not suspend the effectiveness of the RAP, if one is issued. However, the secretary may grant, or the court may order, a stay of the RAP decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26: **

**Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality Hazardous Waste**

**Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility Permits
Subchapter C. Public Notice of Permit Actions and Public Comment Period**

' 717. Methods

Public notice of activities described in LAC 33:V.713.A shall be given by the following methods:

* * *
[See Prior Text in A – A.5.b]

c. those on the list as a result of notification to the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental bulletins, or state law journals. The administrative authority may update the mailing list from time to time by requesting written indication of continued interest from those listed and the administrative authority may delete from the list the name of any person who fails to respond to such a request.

~~d. Also, public notices will be mailed to subscribers to a bulletin issued periodically by the administrative authority. Subscribers will include public officials, industries who operate under department permits, and interested individuals and organizations who request that their name be added to the list. The bulletin will contain information concerning permit applications, actions on permits, suspension and revocation orders, enforcement actions, and other information of public interest concerning the hazardous waste program.~~

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[See Prior Text in B – C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:478 (May 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26: **

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

LOG #: HW073

Person

Preparing

Statement: Thelma Y. Jenkins-Anthony Dept.: Environmental Quality

Phone: 225- 765- 0399

Office: Environmental
Assessment

Return

Address: Post Office Box 82178

Rule

Title: Remedial Action Plans
State Provisions
(LAC 33: V. 625, 630,
635, 660 and 717)

Baton Rouge, Louisiana
70884- 2178

Date Rule
Takes Effect: Upon
Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of implementation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There should be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment are not expected to be significantly affected as a result of the implementation of this rule.

Signature of Agency Head or Designee LEGISLATIVE FISCAL OFFICER OR
DESIGNEE

James H. Brent Ph. D. Assistant Secretary
Typed Name and Title of Agency Head
or Designee

Date of Signature

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

In order to maintain delegation to operate the hazardous waste program in Louisiana in lieu of EPA, or to become delegated for previously undelegated activities, the state must adopt regulations equivalent to federal regulations. Federal regulations promulgated in the 40 CFR on November 30, 1998, contain certain provisions which conflict with state statutes. Specifically, they include: the process to approve or deny a remedial action plan (RAP) application; the effective date of a RAP; when to begin physical construction; appeal of the decision to deny a modification or revocation; and reissuance or termination of a RAP. The state, in this rulemaking, has replaced the federal requirements with equivalent state requirements that comply with the state statutes.

The Agency is also streamlining the public notice requirements by removing redundant regulations as found in LAC 33:V.717.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The state of Louisiana must adopt and promulgate these rules in order for the state to maintain an equivalent RCRA Subtitle C program.

- C. Compliance with Act II of the 1986 First Extraordinary Session
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No. The proposed rule is not expected to result in an expenditure of funds.

- 2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) _____ Yes. If yes, attach documentation.
- (b) _____ No. If no, provide justification as to why this rule change should be published at this time.

This section is not applicable to this package.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

There is no anticipated increase or decrease in costs to implement the proposed action.

COSTS	FY 99-00	FY 00-01	FY 01-02
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
<u>EQUIPMENT</u>			
<u>TOTAL</u>	0	0	0

MAJOR REPAIR & CONSTR. POSITIONS(#)

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

This section is not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 99-00	FY 00-01	FY 01-02
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
<u>OTHER (Specify)</u>			
<u>TOTAL</u>	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Additional funds are not needed to implement this rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

Local governmental units are not expected to be significantly impacted as a result of the implementation of this rule.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

No increase or decrease in revenues can be anticipated from the proposed action.

REVENUE INCREASE/DECREASE	FY 99-00	FY 00-01	FY 01-02
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
<u>LOCAL FUNDS</u>			
TOTAL	0	0	0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This Section is not applicable.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

It is anticipated that the proposed rules would not have any effect on persons or non-governmental groups.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There would be no impact on receipts and/or income resulting from this rule to these groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule will have no effect on competition and employment.