

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Hazardous Waste Site Cleanup Fund Prioritization
(LAC 33:I.Chapter 41) (OS046)

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 Office of the Secretary regulations, LAC 33:I.Chapter 41 (Log #OS046).

The proposed rule sets standards for site prioritization of hazardous and nonhazardous waste sites. The Hazardous Waste Site Cleanup Fund (HWSCF) will be utilized to cover cost from abatement of sites determined to be a priority by these standards and approval of the secretary. This action is mandated by R.S. 30:2205.D, as amended by the 2002 Regular Session of the legislature. The basis and rationale for this rule are to set up regulations to prioritize sites requiring funds from the HWSCF.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) 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 February 24, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by OS046. Such comments must be received no later than March 3, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0389 or by e-mail to lynnw@deq.state.la.us. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS046.

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; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, 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 I. Office of the Secretary
Subpart 2. Notifications

Chapter 41. Hazardous Waste Site Cleanup Fund Site Prioritization

§4101. Purpose

A. The purpose of this Chapter is to establish procedures for prioritizing sites for funding from the Hazardous Waste Site Cleanup Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., in particular, 30:2205.D.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§4103. Applicability

A. This Chapter applies to hazardous and nonhazardous sites to be funded by the Hazardous Waste Site Cleanup Fund and will become effective on [FINAL PROMULGATION DATE TO BE INSERTED].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., in particular, 30:2205.D.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§4105. Prioritization Scheme

A. Each site shall be prioritized by a numerical ranking system based on:

1. health risks;
2. groundwater and surface water contamination;
3. owner/operator recalcitrance or refusal to comply with department-required actions;
4. site owner/operator financial abilities;
5. eligibility for any other viable funding mechanism;
6. availability of money within the fund; and
7. determination by the secretary that the fund should be used to facilitate actions in a timely manner to abate emergencies.

B. The goal of the prioritization scheme is to allow the department to maximize risk reduction in proportion to the fund dollars spent. The department will use the prioritization numerical ranking system as a tool to aid the department in managing risk reduction in proportion to the fund dollars spent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., in particular, 30:2205.D.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

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

LOG #: OS046

Person

Preparing

Statement: Sharon ParkerDept.: Dept. of Environmental QualityPhone: 765-0380Office: Office of Environmental Assessment

Return

Address: 7290 Bluebonnet Blvd.
Baton Rouge, LA 70810Rule Hazardous Waste Site Cleanup
Title: Fund (LAC 33:I.Chapter 41)

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 will be a negligible amount of funds utilized from the Hazardous Waste Site Cleanup Fund (HWSCF) and a negligible number of department man-hours to prioritize waste sites in accordance with the criteria in the proposed rule. The promulgation of this rule will enable the department to allocate, on a priority basis, the funds available in the HWSCF for the remediation of both hazardous and nonhazardous waste sites. There is no direct anticipated impact on local governmental units.

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

No increases or decreases in revenues are anticipated.

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

There will be no direct or indirect effect on persons or non-governmental groups by the proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no known impacts of the proposed action on competition and employment in the public and private sectors.

Signature of Agency Head or Designee

James H. Brent, Ph.D., Assistant Secretary

Typed Name and Title of Agency Head or Designee

LEGISLATIVE FISCAL OFFICER OR DESIGNEE

Date of Signature

LFO 7/1/94

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).

This proposed rule sets standards for site prioritization of hazardous and nonhazardous waste sites. The Hazardous Waste Site Cleanup Fund (HWSCF) will be utilized to cover cost from abatement of sites determined to be a priority by these standards and approval of the secretary.

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

This proposed rule was mandated by LA.R.S. 30:2205.D, as amended by the 2002 Regular Session of the legislature.

- 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.

Yes, the proposed rule change will result in some increase in expenditure of funds from the Hazardous Waste Site Cleanup Fund.

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

(a) X Yes. If yes, attach documentation.

(b) No. If no, provide justification as to why this rule change should be published at this time.

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?

COSTS	FY 02-03	FY 03-04	FY 04-05
PERSONAL SERVICES _____			
OPERATING EXPENSES _____			
PROFESSIONAL SERVICES _____			
OTHER CHARGES _____			
EQUIPMENT _____			
TOTAL	-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.

There will be a negligible amount of funds utilized from the Hazardous Waste Site Cleanup Fund (HWSCF) and a negligible number of department man-hours to prioritize waste sites in accordance with the criteria in the proposed rule. The promulgation of this rule will enable the department to allocate, on a priority basis, the funds available in the HWSCF for the remediation of both hazardous and nonhazardous waste sites.

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

SOURCE	FY 02-03	FY 03-04	FY 04-05
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
DEDICATED _____			
FEDERAL FUNDS _____			
OTHER (Specify) _____			
TOTAL	-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?

Sufficient funding is available from the Hazardous Waste Site Cleanup Fund to implement this proposed 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.

There is no direct anticipated impact on local governmental units.

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 increases or decreases in revenues are anticipated from the proposed action.

REVENUE INCREASE/DECREASE	FY 02-03	FY 03-04	FY 04-05
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
RESTRICTED FUNDS* _____			
FEDERAL FUNDS _____			
LOCAL FUNDS _____			
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 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.

There will be no direct or indirect effect on persons or non-governmental groups by the proposed action.

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 will be no impact on receipts and/or income resulting from this proposed 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.

There will be no known impact of the proposed action on competition and employment in the public and private sectors.