

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Financial Assurance Correction
(LAC 33:XV.399.Appendix A) (RP042ft)

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 amend the Radiation Protection regulations, LAC 33:XV.399.Appendix A (Log #RP042ft).

This proposed rule is identical to federal regulations found in 10 CFR 30.35, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

Appendix A in LAC 33:XV.399, showing financial assurance arrangements, is being updated to reflect the financial assurance amendments made in state rule activity RP039ft, finalized in the *Louisiana Register* on July 20, 2005, to mirror the federal regulations for financial assurance requirements. In LAC 33:XV.325.D, the amounts of financial assurance required for decommissioning by licensees were increased to mirror the federal regulations. The updates to the amounts in the appendix were overlooked in the rulemaking at that time. This rule corrects the mistake in order to make the financial assurance requirements consistent throughout the radiation regulations and to mirror the federal regulations. The basis and rationale for this rule are to keep financial assurance requirements consistent throughout the radiation regulations and to be equivalent with the federal regulations.

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 April 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP042ft. Such comments must be received no later than April 25, 2006, at 4:30 p.m., and should

be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP042ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

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**Title 33
ENVIRONMENTAL QUALITY**

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material

Subchapter Z. Appendices

§399. Schedules A and B, and Appendices A, B, C, D, E, and F

Schedule A. – Schedule B. ...

Appendix A			
Financial Assurance Arrangements			
Recommended Amounts for Mitigation, Liability, and Decommissioning			
By Title	Clean Up	Third Party &/or Off-Site Damages	Decommissioning
A. Licensees 1. Manufacturing & Distribution 2. Radiography 3. Gauges 4. Well Logging 5. Nuclear Medicine 6. Rad. Therp. 7. Acad. 8. R & D 9. Instru. Calib. 10. Irradiators 11. Ind. other than gauges 12. Consultants 13. General Lic. 14. Others not listed in category A	As determined by the chosen method	As determined by the chosen method	For Category A as a whole by quantity of material (Q): 1. $Q > 10^{10}$ x LAC 33:XV.399.Appendix D, as sealed sources = \$113,000 <u>\$75,000</u> . 2. $(10^4 \text{ x LAC 33:XV.399.Appendix D, unsealed sources}) \geq Q > (10^3 \text{ x LAC 33:XV.399.Appendix D, unsealed sources})$, or 10-100 mCi source materials, dispersible form = \$225,000 <u>\$150,000</u> . 3. $(10^5 \text{ x LAC 33:XV.399.Appendix D, unsealed sources}) \geq Q > (10^4 \text{ x LAC 33:XV.399.Appendix D, unsealed sources})$ = \$1,125,000 <u>\$750,000</u> .
B. Low Quantity 1. In Vitro 2. Gas Chromatograph 3. Greater than or Equal to 100 x to 1000 x Exempt Quantity 4. Unsealed, discrete alpha emitters, 10µCi total 5. Check sources of sufficient quantity to require leak testing	As determined by the chosen method	As determined by the chosen method	NA for this category.

Appendix B. – Appendix F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August 2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:**.