NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Affairs and Criminal Investigations Division

Lead-Based Paint Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

(LAC 33:III.2803 and 2811) (AQ390FT)

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 Air regulations, LAC 33:III.2803 and 2811 (Log #AQ390FT).

This Rule is identical to federal regulations found in 40 CFR Part 745 which is applicable in Louisiana. For more information regarding the federal requirement, contact Deidra Johnson at (225) 219-3985. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

Chapter 28, Lead-Based Paint Activities: Recognition, Accreditation, Licensure and Standards for Conducting Lead-Based Paint Activities outlines the requirements for persons who disturb lead-based paint in target housing and child-occupied facilities. The Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD) adopted new dust-lead hazard standards and dust-lead clearance levels for surface dust and windowsills in target housing and child-occupied facilities effective January 6, 2020, and March 8, 2021. As an EPA-authorized state, LDEQ is required to adopt the new standards within two years of federal promulgation. The basis and rationale for this Rule are to mirror the federal regulations. As an EPA-authorized state for lead-based paint activities, we are required to adopt revisions to the federal Rule, in this case, the lead-dust hazard standards and dust-lead clearance levels. This 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.

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

This Rule has no known impact on small business as described in R.S. 49:978.1 – 978.8.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Hearing**

A public hearing will be held on May 25, 2021, 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ390FT. Such comments must be received no later than May 25, 2021, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or by fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@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 LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ390FT. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following LDEQ 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 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette

General Counsel

**Title** **33**

ENVIRONMENTAL QUALITY

**Part III. Air**

Chapter 28. Lead-Based Paint Activities―Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

**§2803. Definitions**

A. …

\* \* \*

*Clearance Levels*―values that indicate the maximum amount of lead permitted in soil or dust on a surface following completion of an abatement activity. Clearance levels that are appropriate for the purposes of this Chapter are listed in LAC 33:III.2811.A.4. To achieve clearance when dust sampling is required, values below these levels must be achieved.

\* \* \*

*Dust-Lead Hazard*―surface dust in a residential building or child-occupied facility, or their exteriors, that contains a mass-per-area concentration of lead equal to or exceeding ~~40~~10micrograms per square foot on floors or ~~250~~100 micrograms per square foot on window sills based on wipe samples.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1663 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2335 (November 2002), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), amended by the Office of the Secretary, Legal Division, LR 39:1466 (June 2013), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47:

**§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities**

A. — A.3c. …

i. in a residential dwelling or child-occupied facility ~~when in a residential dwelling~~ on floors and interior window sills where the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are ~~equal to or greater than 40~~10 micrograms per square foot or greater for floors and ~~250~~100 micrograms per square foot or greater for interior window sills, respectively;

A.3.c.ii. — A.3.d.ii. …

4. Clearance levels that are appropriate for the purposes of this Section are listed as follows:

a. dust wipes from floors/carpets: less than ~~40~~10 micrograms per square foot;

b. dust wipes on window sills: less than ~~250~~100micrograms per square foot;

c. dust wipes on window troughs: less than 400 micrograms per square foot;

d. dust wipes from exterior surfaces: less than 400 micrograms per square foot;

A.4.e. — F.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:644 (April 2007), LR 33:2092 (October 2007), amended by the Office of the Secretary, Legal Division, LR 39:1467 (June 2013), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 47: