

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of the Commissioner

Contagious Diseases (LAC 7:XXI.121)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner, proposes to amend regulations regarding the reporting of contagious diseases.

This regulation is being updated to reflect the current list of animal and poultry diseases that are of regulatory importance and present potential risk to human health. Some of these diseases are added since they are no longer found in Louisiana and special attention must be accorded them if and when they are diagnosed. Others are new and emerging diseases that were not a concern in the past.

These rules comply with and are enabled by R.S. 3:2093, R.S. 3:2094, and R.S. 3:2095.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 1. General Provisions

#### §121. Requiring the Reporting of Contagious Diseases

A. In order to improve the protection of the animals and poultry populations from the effects of contagious diseases, all veterinarians licensed in the state of Louisiana are required to report to the state veterinarian, by telephone, fax, or electronic mail within 24 hours after diagnosis or tentative diagnosis, the occurrence or suspected occurrence of the following contagious diseases or symptoms: including but not limited to classical swine fever (hog cholera), anthrax, vesicular conditions, all equine encephalomyelitis conditions, transmissible spongiform encephalopathies (including chronic wasting disease, scrapie, bovine spongiform encephalopathy), pseudorabies (Aujeszky's Disease), tuberculosis, brucellosis, rabies, Newcastle Disease and other paramyxovirus infections, avian influenza (highly pathogenic), ornithosis (chlamydiosis, psittacosis), salmonellas (pullorum disease or fowl typhoid), infectious laryngotracheitis (other than vaccine induced), any disease classified by USDA as a foreign animal disease, or any other disease condition which may seriously threaten the welfare of the animal and poultry populations of this state.

B. Reports should include the:

1. name, address and phone number of the owner;
2. location of the premises;
3. morbidity and mortality rate at the time of reporting;
4. number of susceptible animals in the immediate area; and
5. approximate number of animals or poultry exposed.

C. Reports of disease outbreaks will be coordinated by the state veterinarian.

D. Livestock owners who suspect the occurrence of contagious disease should immediately contact the local practicing veterinarian, area regulatory veterinarian or county agent who, in turn, will be responsible for reporting to the state veterinarian.

E. An investigation of the reported contagious disease will be made by representatives of the livestock sanitary board, preferably with the veterinarian or county agent reporting the disease. If necessary to protect the animal and poultry populations, a quarantine may be imposed on involved and exposed animals and areas. The quarantine will remain in effect until the threat has been removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2094 and R.S. 3:2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:234 (March 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:813 (October 1989), LR 16:391 (May 1990), LR 23:197 (February 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 29:

#### Family Impact Statement

The proposed amendments to LAC 7:XXI.Chapter 1 regarding the reporting of contagious diseases should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Interested persons should submit written comments on the proposed rules to Dr. Maxwell Lea through the close of business on March 25, 2003 at 5825 Florida Boulevard, Baton Rouge, LA 70806. No preamble regarding these Rules is necessary.

Bob Odom  
Commissioner

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Contagious Diseases

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

It is estimated that there will be no implementation costs or savings to state or local government units. This Rule is being updated to make veterinarians and other individuals involved in animal health issues aware of those animal and poultry diseases that need to be reported to state and federal authorities. The addition of certain diseases to the "reportable disease list" is

necessary since some of these diseases are no longer seen in Louisiana, some are new diseases, some are of human health concern, and some are of concern as possible agents of bioterrorism.

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

It is anticipated that there will be no effect on revenue collections for state or local governmental units.

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

It is estimated that there will be no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no effect on competition and employment.

Bob Odom  
Commissioner  
0301#027

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators C Transfer Policy Changes  
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975).

At the December 2002, meeting of the State Board of Elementary and Secondary Education (SBESE) the board voted to approve revisions to *Bulletin 741*, standards 2.026.06 and 2.026.08. These changes were originally approved by BESE in December 1999, but were incorrectly advertised in the *Louisiana Register*. The changes align the standards with the Board adopted "Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School System: Participation in LEAP 21." The revisions clarify the testing procedures for out-of-state students and for Louisiana residents transferring from any out-of-state school.

### Title 28 EDUCATION

#### Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

##### §901. School Approval Standards and Regulations

###### A. Bulletin 741

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A) (10), (11), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2), (6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

### Transfer Policy Changes

#### §2.026.06 Transfer of Student Records from Approved School

A student transferred from a state-approved school, in- or out-of-state, shall be allowed credit for work completed in the former school. When a student transfers from one school to another, a properly certified transcript, showing the student's record of attendance, achievement, immunization records, and the units if credit earned, shall be required.

Effective with the 2000-2001 school year, students in grades 5 and 9 transferring to the school system from any in-state nonpublic school (state approved and unapproved), or any home schooling program, or Louisiana resident transferring from any out-of-state school shall be required to pass the English language arts and Mathematics portions of the state-developed *LEAP 21* placement test.

#### §2.026.08 Transfer of Student Records from Schools that are not State-Approved

Local school officials from any state-approved school receiving a student from an unapproved school, in- or out-of-state, will determine the placement and/or credits for the student. The principal and/or superintendent may require the student to take an entrance examination on any subject matter for which credit is claimed. The school issuing the high school diploma shall account for all credits required for graduation, and its records will show when and where the credit was earned.

Effective with the 2000-2001 school year, students in grades 5 and 9 transferring to the public school system from any in-state unapproved school, or any home schooling program, or Louisiana resident transferring from any out-of-state school shall be required to pass the English language arts and Mathematics portions of the state-developed *LEAP 21* placement test.

\* \* \*

Interested persons may submit comments until 4:30 p.m., March 11, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 741C Louisiana Handbook for School Administrators C Transfer Policy Changes

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

There should be no additional implementation costs (savings) to state or local governmental units. The revision clarifies testing procedures for out-of-state students and for Louisiana residents transferring from any out-of-state school.

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.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

There should be no affect on competition and employment.

Marlyn Langley  
Deputy Superintendent  
Management and Finance  
0301#035

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**  
**Tuition Trust Authority**  
**Office of Student Financial Assistance**

Scholarship/Grant Programs  
(LAC 28:IV.301)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1). The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28**  
**EDUCATION**

**Part IV. Student Financial Assistance**  
**Higher Education Scholarship and Grant Programs**

**Chapter 3. Definitions**

**§301. Definitions**

**Cost of Attendance** the total amount it will cost a student to go to school, usually expressed as an academic year figure. This cost is determined by the school in compliance with Title IV of the Higher Education Act of 1965, as amended, and is annually updated and adopted by the institution. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students) and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a cooperative education program.

**Dependent Student** a student who is dependent on his or her parents or legal guardian for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

\* \* \*

**TOPS Cumulative Grade Point Average (Academic)** the grade point average calculated by LOSFA on all academic courses taken by a student at postsecondary institutions to determine whether the student has maintained Steady Academic Progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Academic courses taken at a college or university while the student was still in high school and at

postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in non-academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

**TOPS Cumulative Grade Point Average (Non-Academic)** the grade point average calculated by LOSFA on all non-academic courses taken by a student at postsecondary institutions to determine whether the student has maintained Steady Academic Progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all non-academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Non-academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

**TOPS Cumulative High School Grade Point Average** effective for high school graduates beginning with Academic Year (High School) 2002-2003, the grade point average calculated by LOSFA including only the grades achieved in those courses that were used to satisfy core curriculum requirements. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the TOPS Cumulative High School Grade Point Average shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade.

For those high schools that utilize other than a 4.00 scale, all grade values shall be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

For school's awarding a maximum of 5 points for honors courses, the formula shall be used to convert the honors course grade of "C" as shown in the following example.

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

**Quality points** = Credit for course multiplied by the value assigned to the letter grade.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 29:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., January 20, 2002, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge  
General Counsel

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

**RULE TITLE: Scholarship/Grant Programs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no material implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact on revenue collections is anticipated to result from these Rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There are no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
No impact on competition and employment is anticipated to result from this Rule.

George Badge Eldredge  
General Counsel  
0301#029

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Tuition Trust Authority  
Office of Student Financial Assistance**

Student Tuition and Revenue Trust  
(START Saving) Program  
(LAC 28:VI.107)

The Louisiana Tuition Trust Authority (LATTA) announces its intention to amend Rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2). This proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

**Title 28  
EDUCATION**

**Part VI. Student Financial Assistance—Higher  
Education Savings**

**Chapter 1. General Provisions**

**§107. Applicable Definitions**

\* \* \*

*Maximum Allowable Account Balance*—the amount, determined annually, and effective on August 1 of each year, and expressed as a current dollar value, which is equal to five times the Qualified Higher Education Expenses at the highest cost institution in the state. Once the cumulative contributions, earnings on contributions, Earnings Enhancements and interest accrued thereon of an Education Savings Account equals or exceeds the Maximum Allowable Account Balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the Maximum Allowable Account Balance, principal deposits may resume until the cumulative credits equal the most recently determined Maximum Allowable Account Balance.

\* \* \*

*Other Persons*—with respect to any designated Beneficiary, is any person, other than the Beneficiary, whether natural or juridical, who is not a Member of the Family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 29:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., January 20, 2002, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge  
General Counsel

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

**RULE TITLE: Student Tuition and Revenue Trust  
(START Saving) Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no implementation costs or savings to state or local governmental units as a result of these changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from the revision.

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

Expanding definitions provides more information to the public.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this Rule.

George Badge Eldredge  
General Counsel  
0301#028

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division**

**Fee Increases for FY03 and FY04  
(LAC 33:V.5111)(OS041)**

Editor's Note: Section 5111 is being reprinted to correct typographical errors. The original Notice of Intent may be viewed on pages 2601-2628 of the December 2002 edition of the *Louisiana Register*.

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 Environmental Quality regulations, LAC 33:I, III, V, VII, IX, XI, and XV (Log #OS041).

Act 134 of the 2002 Extraordinary Session of the Louisiana Legislature provided for a 20 percent increase in fees effective for Fiscal Year 2003 and a 10 percent increase in fees above that effective for Fiscal Year 2004. This action is required to fund some portion or all of the 150 positions that are currently authorized in the FY02 budget, but which are below the line in the FY03 Executive Budget. The basis and rationale for this rule are to provide additional funds for the continued operation of the department.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the proposed rule. This report is published in the Potpourri Section of the December 20, 2002, issue of the *Louisiana Register*. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials**

**Subpart 1. Department of Environmental Quality-  
Hazardous Waste**

**Chapter 51. Fee Schedules**

**§5111. Calculation of Application Fees**

A. ...

B. Application Fee Schedule

Table 1 (effective July 1, 2002 - June 30, 2003)	
Item	Fee
Site analysis—per acre site size	\$ 300 <sup>1</sup>
Process and plan analysis	\$1,200
Facility analysis—per facility <sup>2</sup>	\$ 600
Management/financial analysis	\$1,200

Table 2 (effective July 1, 2003)	
Item	Fee
Site analysis—per acre site size	\$3,301
Process and plan analysis	\$1,320
Facility analysis—per facility <sup>2</sup>	\$ 660
Management/financial analysis	\$1,320

[Note: Fee equals total of the four items.]

<sup>1</sup> Up to 100 acres, no additional fee thereafter.

<sup>2</sup> Incinerator, land farm, treatment pond, etc. each counted as a facility.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 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 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:287 (March 2001), LR 29:

A public hearing will be held on January 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 OS041. Such comments must be received no later than January 31, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884 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 OS041.

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

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

**RULE TITLE: Fee Increases for FY03 and FY04**

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

There will be no implementation costs or savings to state governmental units. Local governmental units that hold valid operating permits will see a 20 percent increase in fees for FY03 and an additional 10 percent for FY04.

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

There will be an estimated \$7,200,000 increase in revenue collections for the Department in FY 02-03 and an estimated \$11,520,000 increase in revenue collections each fiscal year thereafter.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The estimated costs enumerated in Section II above will be borne by the regulated community.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

James H. Brent, Ph.D.  
Assistant Secretary  
0301#012

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

**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.

**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:

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.

## NOTICE OF INTENT

### Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Incorporation by Reference (IBR) of 40 CFR 60  
(LAC 33:III.3003)(AQ230\*)

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

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

##### RULE TITLE: **Hazardous Waste Site Cleanup Fund Prioritization**

#### 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 NONGOVERNMENTAL 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.

James H. Brent, Ph.D.  
Assistant Secretary  
0301#049

Robert E. Hosse  
General Government Section Director  
Legislative Fiscal Office

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.3003 (Log #AQ230\*).

This proposed rule is identical to federal regulations found in 40 CFR 60.2575-60.2875, (July 1, 2001), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. 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).

It has been brought to the department's attention, by EPA Region VI, that the contents of the department's emission guidelines for commercial and industrial solid waste incineration units do not match the contents of LAC 33:III.3003.B.6. This Rule change proposes to correct this inadvertent error. The draft emission guidelines plan actually includes 40 CFR 60.2575 through 2875. The basis and rationale for this rule are to amend the regulations to correctly identify the contents of the department's emission guidelines for commercial and industrial solid waste incineration units.

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.

#### Title 33

#### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

#### Subchapter A. Incorporation by Reference (IBR)

#### §3003. IBR 40 Code of Federal Regulations (CFR) Part 60

#### A. - B.5. ...

6. The department's emission guideline plan, required by the CAA, Section 111(d), for Commercial and Industrial Solid Waste Incineration (CISWI) Units includes 40 CFR 60.2575-60.2875 and Tables 1-5. Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.2635, the department shall accept accreditation approved by other states complying with 40 CFR 60.2635.

#### C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000), LR 26:2460 (November 2000), LR 26:2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2181 (October 2002), LR 29:

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 AQ230\*. Such comments must be received no later than February 24, 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 email to lynnw@deq.state.la.us. 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 Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of AQ230\*.

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

0301#050

## NOTICE OF INTENT

**Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division**

RCRA XII Package

(LAC 33:V.105, 109, 321, 529, 535, 537, 2001, 2219, 2603, 3001, 3105, 3115, 4513, 4901, and 4903)(HW083\*)

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 Hazardous Waste regulations, LAC 33:V.Chapters 1, 3, 5, 20, 22, 26, 30, 31, 43, and 49 (Log #HW083\*).

This proposed rule is identical to federal regulations found in 66 FR 50332-50334, 10/3/01; 66 FR 58258-58300, 11/20/01, amended 67 FR 17119-17120, 4/9/02; 67 FR 2962-3029, 1/22/02; 67 FR 6792-6818, 2/13/02; 67 FR 6968-6996, 2/14/02; 67 FR 11251-11254, 3/13/02, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. 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).

This proposed Rule includes changes to the Hazardous Waste regulations on the following topics that are required by the Environmental Protection Agency for continued authorization of the RCRA program in the state of Louisiana: Mixture and Derived-From Revision II; Inorganic Chemical Manufacturing Wastes Identification and Listing; CAMU Amendments; Hazardous Air Pollutant Standards for Combustors: Interim Standards; Hazardous Air Pollutant Standards for Combustors: Corrections; Va catur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste. The hazardous waste regulations for the state must be equivalent to those of the federal in order for the state to be authorized for the new portions of the RCRA program. The basis and rationale for this Rule are to mirror 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.

### Title 33

## ENVIRONMENTAL QUALITY

### Part V. Hazardous Waste and Hazardous Materials

#### Subpart 1. Department of Environmental Quality—Hazardous Waste

#### Chapter 1. General Provisions and Definitions

#### §105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

A. - D.1.o. ...

p. spent materials (as defined in LAC 33:V.109) (other than hazardous wastes listed in LAC 33:V.Chapter 49) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that:

i. the spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;

ii. the spent material is not accumulated speculatively;

iii. except as provided in Clause D.1.p.iv of this Section, the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of nonearthen materials providing structural support (except smelter buildings may have partially earthen floors provided the secondary material is stored on the nonearthen portion) and have a roof suitable for diverting rainwater away from the foundation; a tank must be freestanding, not be a surface impoundment (as defined in LAC 33:V.109), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate that may be subject to wind dispersal, the owner/operator must operate these units in a manner that controls fugitive dust. Tanks, containers, and buildings must be designed, constructed, and operated to prevent significant releases to the environment of these materials;

iv. the administrative authority may make a site-specific determination, after public review and comment, that only solid mineral processing spent materials may be placed on pads, rather than in tanks, containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The decision-maker must affirm that pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment. Pads must provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion;

(a). the decision-maker must also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway;

(b). pads must meet the following minimum standards: be designed of nonearthen material that is compatible with the chemical nature of the mineral processing spent material; be capable of withstanding physical stresses associated with placement and removal; have run-on/runoff controls; be operated in a manner which controls fugitive dust; and have integrity assurance through inspections and maintenance programs;

(c). ...

v. the owner or operator provides notice to the Office of Environmental Services, Permits Division providing the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process; and

vi. for purposes of Subparagraph D.2.h of this Section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste;

D.1.q. - 2.p. ...

i. the solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, and K178, if these wastes had been generated after the effective date of the listing;

ii. - iv. ...

v. as of February 13, 2001, the leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this Clause after the emergency ends.

D.3. - O.2.c.vi. ...

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 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:

### **§109. Definitions**

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

\* \* \*

*Hazardous Waste*Ca solid waste, as defined in this Section, is a hazardous waste if:

1. - 4.a. ...

b.i. Except as otherwise provided in Clause 4.b.ii, Subparagraph 4.f, or Paragraph 6 of this definition, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation runoff) is a hazardous waste. (However, materials that are reclaimed from solid waste and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

4.b.ii. - e. ...

f. A hazardous waste that is listed in LAC 33:V.4901 solely because it exhibits one or more characteristics of ignitability as defined under LAC 33:V.4903.B, corrosivity as defined under LAC 33:V.4903.C, or reactivity as defined under LAC 33:V.4903.D is not a hazardous waste if the waste no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903. The exclusion also pertains to any mixture of a solid waste and a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Subparagraph 2.c of this definition, and any solid waste generated from treating, storing, or disposing of a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Clause 4.b.i of this definition. Wastes excluded under this Subparagraph are subject to LAC 33:V.Chapter 22 (as applicable), even if they no longer exhibit a characteristic at the point of land disposal. Any mixture of a solid waste excluded from regulation under LAC 33:V.105.D.2.h and a hazardous waste listed in LAC 33:V.Chapter 49 solely because it exhibits one or more of the characteristics of ignitability, corrosivity, or reactivity, as regulated under Subparagraph 2.d of this definition, is not a hazardous waste if the mixture no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.Chapter 49 for which such hazardous waste was listed.

4.g. - 6.b. ...

\* \* \*

#### *Solid Waste*C

1.a. - 3.b.ii. ...

c. *reclaimed*C materials noted with an "\*" in column 3 of Table 1 in this Chapter are solid wastes when reclaimed (except as provided under LAC 33:V.105.D.1.p). Materials noted with a "---" in column 3 of Table 1 are not solid wastes when reclaimed;

3.d. - Table 1. ...

\* \* \*

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 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990),

LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:

### **Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits**

#### **§321. Modification of Permits**

A. - C.10. ...

a. Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to October 11, 2000 (see 40 CFR 63, revised as of July 1, 2000) in order to request a permit modification under this Section.

C.10.b. ...

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 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 28:1000 (May 2002), LR 29:

#### **Chapter 5. Permit Application Contents**

##### **Subchapter E. Specific Information Requirements**

#### **§529. Specific Part II Information Requirements for Incinerators**

Except as LAC 33:V.Chapter 31 and Subsection F of this Section provides otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section.

A. - E.3. ...

F. When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3117.A and C if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.D.24(a) and 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 10:280 (April 1984), LR 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:2199 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:

**§535. Specific Part II Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste for Energy or Material Recovery and not for Destruction**

A. - F. ...

G. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3005.E.1 and 2.c if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:817 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:

**Subchapter F. Special Forms of Permits**

**§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (Boilers and Industrial Furnaces Burning Hazardous Waste for Destruction Are Subject to Permit Requirements for Incinerators)**

A. - C.2. ...

D. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3005.E.1 and 2.c if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818 (September 1996), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), LR 27:292 (March 2001), LR 29:

**Chapter 20. Integration with Maximum Achievable Control Technology (MACT) Standards**

**§2001. Options for Incinerators and Cement and Lightweight Aggregate Kilns to Minimize Emissions from Startup, Shutdown, and Malfunction Events**

NOTE: This Chapter is written in a special format to make it easier to understand the regulatory requirements. Like other department regulations, this establishes enforceable legal requirements. For this Chapter, I and you refer to the owner/operator.

**A. Facilities with Existing Permits**

1. Revisions to Permit Conditions after Documenting Compliance with MACT. The owner or operator of a RCRA - permitted incinerator, cement kiln, or lightweight aggregate kiln may request that the administrative authority address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options when requesting removal of permit conditions that are no longer applicable according to LAC 33:V.3105.B and LAC 33:V.3001.B.

a. Retain Relevant Permit Conditions. Under this option, the administrative authority will:

i. retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2); and

ii. specify that these permit conditions apply only when the facility is operating under its startup, shutdown, and malfunction plan.

b. Revise Relevant Permit Requirements

i. Under this option, the administrative authority will:

(a). identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

(b). retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

ii. Changes that May Significantly Increase Emissions

(a). You must notify the administrative authority in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the administrative authority of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

(b). The administrative authority may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either upon permit renewal or, if warranted, by modifying the permit under LAC 33:V.323.B.2.c or LAC 33:V.321.C.

c. Remove Permit Conditions. Under this option:

i. you must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the administrator under 40 CFR 63.1206(c)(2)(ii)(B); and

ii. the administrative authority will remove permit conditions that are no longer applicable according to LAC 33:V.3105.B and LAC 33:V.3001.B.

2. Addressing Permit Conditions Upon Permit Reissuance. The owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that has conducted a comprehensive performance test and submitted to the administrator a Notification of Compliance documenting compliance with the standards of 40 CFR Part 63, Subpart EEE may request in the application to reissue the permit for the combustion unit that the administrative authority control emissions from startup, shutdown, and malfunction events under any of the following options.

a. RCRA Option A. Under this option, the administrative authority will:

i. include, in the permit, requirements that ensure compliance with LAC 33:V.3117.B and C or LAC 33:V.3005.E.1 and 2.c to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

ii. specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

b. RCRA Option B

i. Under this option, the administrative authority will:

(a). include, in the permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

(b). specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

ii. Changes That May Significantly Increase Emissions

(a). You must notify the administrative authority in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the administrative authority of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a

result of the changes to ensure that emissions of toxic compounds are minimized during these events.

(b). The administrative authority may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either upon permit renewal or, if warranted, by modifying the permit under LAC 33:V.323.B.2.c or LAC 33:V.321.C.

c. CAA Option. Under this option:

i. you must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the administrator under 40 CFR 63.1206(c)(2)(ii)(B); and

ii. the administrative authority will remove permit conditions that are no longer applicable under LAC 33:V.3105.B and LAC 33:V.3001.B.

B. Interim Status Facilities

1. Interim Status Operations. In compliance with LAC 33:V.4513 and LAC 33:V.3001.B, the owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of LAC 33:V.Chapters 30 and 43 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the administrator a Notification of Compliance documenting compliance with the standards of 40 CFR Part 63, Subpart EEE.

a. RCRA Option. Under this option, you must continue to comply with the interim status emission standards and operating requirements of LAC 33:V.Chapters 30 and 43 relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events.

b. CAA Option. Under this option, you are exempt from the interim status standards of LAC 33:V.Chapters 30 and 43 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the administrative authority that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the administrator under 40 CFR 63.1206(c)(2)(ii)(B).

2. Operations Under a Subsequent RCRA Permit. When an owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of LAC 33:V.Chapters 30 and 43 submits a RCRA permit application, the owner or operator may request that the administrative authority control emissions from startup, shutdown, and malfunction events under any of the options provided by Subparagraph A.2.a, b, or c of this Section.

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 29:

**Chapter 22. Prohibitions on Land Disposal**  
**Subchapter A. Land Disposal Restrictions**

**§2219. Waste Specific Prohibitions C Inorganic Chemical Wastes**

A. Effective May 20, 2002, the wastes specified in 40 CFR Part 261 as EPA Hazardous Waste Numbers K176, K177, and K178, soil and debris contaminated with these wastes, radioactive wastes mixed with these wastes, and soil and debris contaminated with radioactive wastes mixed with these wastes are prohibited from land disposal.

B. The requirements of Subsection A of this Section do not apply if:

1. the wastes meet the applicable treatment standards specified in LAC 33:V.2223 and Table 2 of this Chapter;
2. persons have been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241, with respect to those wastes and units covered by the petition;
3. the wastes meet the applicable treatment standards established in accordance with a petition granted under LAC 33:V.2231;

4. hazardous debris has met the treatment standards in LAC 33:V.2223 or the alternative treatment standards in LAC 33:V.2230; or

5. persons have been granted an extension to the effective date of a prohibition in accordance with LAC 33:V.2239, with respect to those wastes covered by the extension.

C. To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in LAC 33:V.2223, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable levels in LAC 33:V.2223 and Table 2 of this Chapter, the waste is prohibited from land disposal, and all requirements of this Chapter are applicable, except as otherwise specified.

**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 29:

**Appendix**

**Table 2. Treatment Standards for Hazardous Wastes**

Waste Code	Waste Description and Treatment/Regulatory Subcategory <sup>1</sup>	Regulated Hazardous Constituent		Wastewaters	Non-wastewaters
		Common Name * * *	CAS <sup>2</sup> Number	Concentration in mg/l <sup>3</sup> ; or Technology Code <sup>4</sup>	Concentration in mg/kg <sup>5</sup> unless noted as "mg/l TCLP" or Technology Code <sup>4</sup>
[See Prior Text in D001 – K175]					
K176	Baghouse filters from the production of antimony oxide, including filters from the production of intermediates (e.g., antimony metal or crude antimony oxide).	Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Mercury	7439-97-6	0.15	0.025 mg/l TCLP
K177	Slag from the production of antimony oxide that is speculatively accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide).	Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K178	Residues from manufacturing and manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process.	1,2,3,4,6,7,8-Heptachlorodibenzo"p"dioxin (1,2,3,4,6,7,8-HpCDD)	35822-39-4	0.000035 or CMBST <sup>11</sup>	0.0025 or CMBST <sup>11</sup>
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035 or CMBST <sup>11</sup>	0.0025 or CMBST <sup>11</sup>
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035 or CMBST <sup>11</sup>	0.0025 or CMBST <sup>11</sup>
		HxCDDs (All Hexachlorodibenzo"p"dioxins)	34465-46-8	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		1,2,3,4,6,7,8,9-Octachlorodibenzo"p"dioxin (OCDD)	3268-87-9	0.000063 or CMBST <sup>11</sup>	0.005 or CMBST <sup>11</sup>

Waste Code	Waste Description and Treatment/Regulatory Subcategory <sup>1</sup>	Regulated Hazardous Constituent		Wastewaters	Non-wastewaters
		Common Name	CAS <sup>2</sup> Number	Concentration in mg/l <sup>3</sup> ; or Technology Code <sup>4</sup>	Concentration in mg/kg <sup>5</sup> unless noted as "mg/l TCLP" or Technology Code <sup>4</sup>
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063 or CMBST <sup>11</sup>	0.005 or CMBST <sup>11</sup>
		PeCDDs (All Pentachlorodibenzo"p"dioxins)	36088-22-9	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		TCDDs (All tetrachlorodibenzo-p-dioxins)	41903-57-5	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		TCDFs (All tetrachlorodibenzofurans)	55722-27-5	0.000063 or CMBST <sup>11</sup>	0.001 or CMBST <sup>11</sup>
		Thallium	7440-28-0	1.4	0.20 mg/l TCLP
*** [See Prior Text in P001 – U411]					

Notes 1- 12 ...  
NOTE: NA means not applicable.

**Chapter 26. Corrective Action Management Units and Special Provisions for Cleanup**

**§2603. Corrective Action Management Units (CAMUs)**

A. - E.4.a.ii. ...

iii. The administrative authority may also designate other constituents as principal hazardous constituents that the administrative authority determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site.

E.4.b. - K. ...

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 28:1192 (June 2002), amended LR 29:

**Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces**

**§3001. Applicability**

A. The regulations of this Chapter apply to hazardous waste burned for energy or material recovery in a boiler or industrial furnace (as defined in LAC 33:V.109) irrespective of the purpose of burning or processing, except as provided by Subsections B-D, G, and H of this Section. In this Chapter, the term "burn" means burning for energy recovery or destruction, or processing for materials recovery or as an ingredient. The emissions standards of LAC 33:V.3009-3015 apply to facilities operating under interim status or under a hazardous waste permit as specified in LAC 33:V.3005 and 3007.

B. Integration of the MACT Standards

1. Except as provided by Paragraph B.2 of this Section, the standards of this Chapter no longer apply when an affected source demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE. Nevertheless, even after this demonstration of compliance

with the MACT standards, RCRA permit conditions that were based on the standards of this Chapter will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2. The following standards continue to apply:

a. if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, LAC 33:V.3005.E.1, requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and LAC 33:V.3005.E.2.c, requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

b. the closure requirements of LAC 33:V.3005.I and 3007.L;

c. the standards for direct transfer of LAC 33:V.3023;

d. the standards for regulation of residues of LAC 33:V.3025; and

e. the applicable requirements of LAC 33:V.901, 905, 907, 909, Chapters 15, 17 (Subchapters B and C), 33, 35, 37, and 43 (Subchapters A-G, R, and V), 4301.A-C, G, and I, and 4306.

C. - D.2.b. ...

3. To be exempt from LAC 33:V.3005-3023, an owner or operator of a lead or nickel-chromium or mercury recovery furnace (except for owners or operators of lead recovery furnaces subject to regulation under the Secondary Lead Smelting NESHAP) or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must provide a one-time written notice to the administrative authority identifying each hazardous waste burned, specifying whether the owner or operator claims an exemption for each waste under Paragraph D.1 or 3 of this Section. The owner or operator must comply with the requirements of Paragraph D.1 of this

Section for those wastes claimed to be exempt under that Section and must comply with the requirements below for those wastes claimed to be exempt under this Section.

D.3.a. - H. ...

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 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821 (September 1996), LR 22:835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 27:297 (March 2001), LR 27:712 (May 2001), LR 29:

## **Chapter 31. Incinerators**

### **§3105. Applicability**

A. - B. ...

1. Except as provided by Paragraphs B.2, 3, and 4 of this Section, the standards of this Subsection no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of LAC 33:V.901, 905, 907, and Chapters 15-21, 23-29, and 31-37 will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2. ...

3. The particulate matter standard of LAC 33:V.3111.A.4 remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206(b)(14).

4. The following requirements remain in effect for startup, shutdown, and malfunction events if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from these events:

a. LAC 33:V.3117.A, requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

b. LAC 33:V.3117.C, requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

C. - Table 1.Footnote 1. ...

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 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:

## **§3115. Incinerator Permits for New or Modified Facilities**

A. - D. ...

E. When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3117.A and C if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:828 (September 1996), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:683 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), LR 27:302 (March 2001), LR 29:

## **Chapter 43. Interim Status**

### **Subchapter N. Incinerators**

#### **§4513. Applicability**

A. - B. ...

1. Except as provided by Paragraphs B.2 and 3 of this Section, the standards of this Chapter no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE.

2. The following requirements continue to apply even where the owner or operator has demonstrated compliance with the MACT requirements of 40 CFR Part 63, Subpart EEE, LAC 33:V.4521 (closure), and the applicable requirements of LAC 33:V.4301.A - C, G, and I, 4306, and Chapter 43 (Subchapters A - G, R, and V).

3. LAC 33:V.4517.A, generally prohibiting burning of hazardous waste during startup and shutdown, remains in effect if the owner or operator elects to comply with LAC 33:V.2001.B.1.a to minimize emissions of toxic compounds from startup and shutdown.

C. - C.4. ...

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 15:737 (September 1989), amended LR 16:220 (March 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), LR 29:

**Chapter 49. Lists of Hazardous Wastes**

**§4901. Category I Hazardous Wastes**

A. - C. ...

Table 2. Hazardous Wastes from Specific Sources		
Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste
***		
[See Prior Text in Wood Preservation, K001 – Inorganic Chemicals, K106]		
K176	(E)	Baghouse filters from the production of antimony oxide, including filters from the production of intermediates (e.g., antimony metal or crude antimony oxide).
K177	(T)	Slag from the production of antimony accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide).
K178	(T)	Residues from manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process.
***		
[See Prior Text in Pesticides, K031 – Coking, K148]		

D. - G ...

Table 6. Table of Constituents that Serve as a Basis for Listing Hazardous Waste	
***	
[See Prior Text in F001 – K175, Mercury]	
EPA Hazardous Waste Number K176	Arsenic
	Lead
EPA Hazardous Waste Number K177	Antimony
EPA Hazardous Waste Number K178	Thallium

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001), LR 28:1009 (May 2002), LR 29:

**§4903. Category II Hazardous Wastes**

A. - E. ...

1. A solid waste (except manufactured gas plant waste) exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, Method 1311 described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, the extract from a representative sample of the waste contains any of the contaminants listed in Paragraph E.2.Table 5 of this Section at the concentration equal to or greater than the respective value given in that table. Where the waste contains less than

0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purposes of this Section.

E.2. - F. ...

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 10:496 (July 1984), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 22:829 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

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 HW083\*. Such comments must be received no later than February 24, 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. 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 Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of HW083\*.

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

James H. Brent, Ph.D.  
Assistant Secretary

0301#048

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Nursing

Licensure as Advanced Practice Registered Nurse  
(LAC 46:XLVII.4507)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (Board) pursuant to the authority vested in the board by R.S. 37:918-919 intends to amend the Professional and Occupational Standards pertaining to licensure as Advanced Practice Registered Nurse. The proposed amendments of the Rules are set forth below.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

#### Subpart 2. Registered Nurses

### Chapter 45. Advanced Practice Registered Nurses §4507. Licensure as Advanced Practice Registered Nurse

A. - F.1.b. ...

c. evidence of current certification/recertification by a national certifying body accepted by the board; or

d. APRNs initially licensed in accordance with R.S. 37:912.B(3)(4) or 920.A.(2) and 4507.A.2 whose specialty and/or functional role does not provide for certification/recertification shall apply for a six month temporary permit, and practice under the temporary permit and current practice standards set forth by the respective advanced practice nursing specialty and/or functional role; and submit the following documentation with the application for reinstatement for each year of inactive or lapsed status:

i. a minimum of 300 hours of practice in advanced practice registered nursing as defined in R.S. 37:913.(3)(a) for each year of inactive or lapsed status up to a maximum of 800 hours; and

ii. a minimum of 2 college credit hours per year of relevance to the advanced practice role; or

iii. a minimum of 30 continuing education (C.E.) contact hours approved by the board each year. Of the 30 contact hours, a maximum of 10 C.E. contact hours may be approved Continuing Medical Education (CMEs); and

e. the required fee as specified in LAC 46:XLVII.3341.

2. Reinstatement of an APRN license, which has lapsed or been inactive four years or more. If the applicant's APRN license has been lapsed or inactive for four or more years, in addition to meeting the above requirements in Subsection F.1.a-e., the applicant shall:

a. - g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 22:283 (April 1996), amended LR 27:723 (May 2001), LR 29:

### Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed Rule related to the board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments on the proposed Rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd., Suite 501, Metairie, LA 70002. The deadline for receipt of all written comments is 4:30 p.m. on February 10, 2003.

Barbara L. Morvant  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Licensure as Advanced Practice Registered Nurse

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

The only implementation cost for the publication of the Rule change in the *Louisiana Register*, estimated to be \$45 in FY 03.

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

There is no estimated effect on revenue collections.

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

Effective January 31, 2003, APRNs who do not meet minimum clinical practice requirements will not be eligible for reinstatement. Current Rules do not provide a mechanism for the APRNs to subsequently obtain the practice requirement to reinstate. The APRN would need to leave the state to obtain the practice hours or retain an inactive license, thus losing valuable services to Louisiana citizens. Proposed Rule provides a safe mechanism for effected APRNs to retain licensure.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Barbara L. Morvant  
Executive Director  
0301#020

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Medical Examiners

Podiatric Postgraduate Year One (Internship) Registration,  
Reinstatement, Continuing Medical Education  
(LAC 46:XLV.1301-1305, 1361-1363,  
1371-1385, and 1391-1397)

Notice is hereby given, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., that the Louisiana State Board of Medical Examiners (Board),

pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, particularly R.S. 37:1270 and the Louisiana Podiatry Practice Act, R.S. 37:611-628, particularly, R.S. 37:613A(5), intends to amend its existing rules to provide substantive definitions, 46:XLV, Subpart 2, Chapter 13, §§1301-1303; to adopt new rules governing reinstatement of licensure for podiatrists, §1363, for continuing medical education for podiatrists seeking renewal and/or reinstatement of licensure, §§1361, 1371-1385, and to adopt new rules requiring one year of approved postgraduate (internship) training for podiatric applicants seeking initial licensure, §§1305, 1391-1397. The proposed rules and rule amendments are set forth below.

The proposed rules and amendments have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **PART XLV. Medical Profession**

#### **Subpart 2. Licensure and Certification**

#### **Chapter 13. Podiatrists**

#### **Subchapter A. General Provisions**

#### **§1301. Scope of Chapter**

A. The Rules of this Chapter govern the licensing of podiatrists to engage in the practice of podiatry in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:612, R.S. 37:613 and R.S. 37:616.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

#### **§1303. Definitions**

A. As used in this Chapter the following terms shall have the meanings specified.

*Applicant* Ca person who has applied to the board for a license or permit to engage in the practice of podiatry in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate podiatric education.

*Application* Ca written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice podiatry in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate podiatric education, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

*Good Moral Character* Cas applied to an applicant, means that:

1. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:624 for the suspension or revocation of podiatry licensure;

2. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

3. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

*License* Cthe lawful authority of a podiatrist to engage in the practice of podiatry in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

*Permit* Cthe lawful authority of a podiatrist to engage in the practice of podiatry in the state of Louisiana for a designated, temporary period of time subject to restrictions and conditions specified by the board, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to a license or to renewal of the permit.

*Podiatrist* Ca person possessing a doctor of podiatric medicine degree or an equivalent degree duly awarded by a school or college of podiatry approved by the board.

*Podiatry Practice Act or the Act* CR.S. 37:611-628, as hereafter amended or supplemented.

*Postgraduate Year One (Internship) Registration* Cthe lawful authority of a podiatrist to engage in the first year of continuing postgraduate podiatric training in the state of Louisiana at a podiatric medical education or internship program approved by the board, as evidenced by a certificate of registration duly issued by and under the official seal of the board.

*State* Cany state of the United States, the District of Columbia and Puerto Rico.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:612, R.S. 37:613, R.S. 37:616 and R.S. 37:618.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

#### **Subchapter B. Requirements and Qualifications for Licensure**

#### **§1305. Qualifications for License**

A. To be eligible for a license, an applicant shall:

1. be at least 21 years of age;
2. be of good moral character as defined by §1303.A;
3. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

4. possess a doctor of podiatric medicine or equivalent degree duly issued and conferred by a podiatric school or college approved by the board; and

5. with respect to applications for licensure first received by the board on and after January 1, 2005, have completed at least one year of postgraduate podiatric training in an internship or equivalent program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor association, and approved by the board.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:612, R.S. 37:613 and R.S. 37:616.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:612, R.S. 37:613 and R.S. 37:616.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**Subchapter H. Licensure Issuance, Termination, Renewal, Reinstatement**

**§1361. Renewal of License**

A. Every license or permit issued by the board shall be renewed annually on or before the first day of the month in which the licensee was born by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed by the board and documentation of satisfaction of the continuing medical education requirement prescribed by Subchapter J of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**§1363. Reinstatement of Expired License**

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter set forth, provided that application for reinstatement is made within four years of the date of expiration. A podiatrist whose license has lapsed and expired for a period in excess of four years or who is otherwise ineligible for reinstatement under this section may apply to the board for an initial original or reciprocal license pursuant to these rules and/or the Podiatry Practice Act.

B. An applicant seeking reinstatement more than one year from the date on which his license expired shall demonstrate, as a condition of reinstatement, satisfaction of the continuing medical education requirement of §1373 of Subchapter J of these rules for each year since the date of the expiration of licensure. As additional conditions of reinstatement the board may require:

1. that the applicant complete a statistical affidavit upon a form supplied by the board and provide a recent photograph;
2. that the applicant possess a current, unrestricted license to practice podiatry issued by another state; and/or
3. if the applicant does not at the time of the application for reinstatement possess a current, unrestricted license to practice podiatry issued by another state, that the applicant take and successfully pass:
  - a. all or a designated portion of the examination specified by R.S. 37:613; or
  - b. a written certification or recertification examination approved, offered or sponsored by the American Podiatric Medical Association or its successor association and acceptable to the board.

C. An applicant whose license to practice podiatry has been revoked, suspended or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his license to practice podiatry in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges following

the date on which his license to practice podiatry in Louisiana expired shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:624.

E. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable podiatrists of the former licensee's last professional location, together with the applicable fees and costs prescribed by the board, plus a penalty computed as follows.

1. If the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.

2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

3. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:617, R.S. 37:621, R.S. 37:622 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**Subchapter J. Continuing Medical Education**

**§1371. Scope of Subchapter**

A. The rules of this subchapter provide standards for the continuing medical education (CME) requisite to the renewal or reinstatement of licensure as provided by §1361 and §1363 of these rules and prescribe the procedures applicable to satisfaction and documentation of continuing medical education in connection with applications for renewal or reinstatement of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1270(A)(8), R.S. 37:621 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**§1373. Continuing Medical Educational Requirement**

A. Subject to the waiver of and exceptions to CME provided by §1383 and §1385, respectively, every podiatrist seeking the renewal or reinstatement of licensure, to be effective on or after January 1, 2005, shall annually evidence and document, upon forms supplied by the board, the successful completion of not less than 20 hours of board approved CME.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S. 37:621 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**§1375. Qualifying Continuing Medical Education Programs**

A. Any program, course, seminar or other activity offering Category 1 CME shall be deemed approved for purposes of satisfying the continuing medical education requirement under this subchapter, if approved, sponsored or offered by:

1. the American Podiatric Medical Association, or its successor association;

2. an organization or entity accredited by the Accreditation Council for Continuing Medical Education (ACCME);

3. a member board of the American Board of Medical Specialties;

4. an organization or entity accredited by the Louisiana State Medical Society or any other ACCME recognized state medical society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

### **§1377. Documentation Procedure**

A. A form for annual documentation and certification of satisfaction of the continuing medical education requirement prescribed by §1373 shall be included with each application for renewal or reinstatement of licensure form mailed by the board pursuant to §1361 or §1363. Such form shall be completed and delivered to the board with the podiatrist's application.

B. Podiatrists will not be required to transmit documentation of compliance with the continuing medical education requirement for renewal or reinstatement of licensure, unless otherwise required by these rules or requested by the board pursuant to §1377.E.

C. A podiatrist shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing medical education activity. Satisfactory evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

1. program title;
2. sponsor's name;
3. podiatrist's name;
4. inclusive date or dates and location of the CME event; and

5. documented verification of successful completion of 20 hours of Category 1 CME by stamp, signature or other official proof acceptable to the board.

D. The board shall select for an audit of continuing medical education activities no fewer than 2 percent of the applicants for renewal or reinstatement each year. In addition, the board has the right to audit any questionable documentation of activities.

E. Verification of continuing medical education satisfying the requirement of this subchapter shall be submitted to the board within 30 days of the date of mailing of notification of audit or such longer period as the board may designate in such notification. A podiatrist's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

F. Any certification of continuing medical education not presumptively approved by the board pursuant to §1375 shall not be considered as qualifying for CME recognition by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S. 37:621 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

### **§1379. Failure to Satisfy Continuing Medical Education Requirement**

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirement prescribed by these rules shall be

given written notice of such failure by the board. Such notice shall be mailed to the most recent address of the licensee as reflected in the official records of the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which such license shall be deemed expired, unrenewed and subject to suspension or revocation without further notice unless the applicant shall have furnished the board, within such 90 days, satisfactory evidence by affidavit, that:

1. the applicant has satisfied the applicable continuing medical education requirement;

2. the applicant's failure to satisfy the continuing medical education requirement was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §1383; or

3. the applicant is exempt from such requirement pursuant to §1385.

B. The license of a podiatrist which has expired for nonrenewal or has been suspended or revoked for failure to satisfy the CME requirement of these rules may be reinstated pursuant to §1363 upon written application to the board, accompanied by payment of the application fee prescribed by §1363, in addition to all other applicable fees and costs, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license was last issued or renewed, completed an aggregate of 20 hours of board approved CME.

C. The license of a podiatrist which has been suspended or revoked on more than one occasion for failure to satisfy the CME requirement of these rules shall be deemed in violation of R.S. 37:624(15), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a podiatrist to practice podiatry in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S. 37:621, R.S. 37:624 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

### **§1381. Falsification of Continuing Medical Education**

A. Any licensee or applicant who falsely certifies attendance at and/or completion of the required continuing medical education requirement of §1373 shall be deemed in violation of R.S. 37:624(2) and/or (15), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a podiatrist to practice podiatry in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S. 37:624 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

### **§1383. Waiver of Requirement**

A. The board may, in its discretion, waive all or part of the CME required by these rules in favor of a podiatrist who makes written request to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of the CME requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**§1385. Exceptions to the Continuing Medical Education Requirement**

A. The CME requirement prescribed by this subchapter prerequisite to renewal or reinstatement of licensure shall not be applicable to a podiatrist:

1. engaged in military service longer than one year's duration outside of Louisiana;
2. who has held an initial Louisiana license on the basis of examination for less than one year; or
3. who is in a postgraduate year one podiatric training program approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**Subchapter K. Postgraduate Year One (Internship) Registration**

**§1391. Necessity for Registration**

A. As used in this section, *postgraduate year one (PGY-1)* or *internship* means the first year of postgraduate podiatric training, following graduation from a school or college of podiatry, that is approved by the Council of Podiatric Medical Education of the American Podiatric Medical Association, or its successor, and the board. For purposes of this section PGY-1 includes only the first year of any such training following graduation from a podiatry school or college and does not include training which may be designated PGY-1 level subsequent to prior training at such level in any specialty, field, or program.

B. No person who does not possess a license or permit issued under this Chapter shall enroll or participate in a PGY-1 podiatric educational program, or internship, unless he is duly registered with the board pursuant to this Subchapter.

C. Notwithstanding registration under this subchapter, no person who does not possess a license or permit issued under this Chapter shall enroll or participate in a first year postgraduate podiatric educational program, an internship, or any other program howsoever designated or whenever taken, which permits or requires such persons to exercise independent judgment, assume independent responsibility for patient care or otherwise to engage in the practice of podiatry.

D. Upon a finding that a person or registrant has violated the proscriptions of this section, the board may:

1. suspend or revoke such person's registration under this subchapter or impose probationary conditions thereon;
2. consider and declare such person or registrant ineligible for a podiatry license or permit under this Chapter; and/or
3. cause the institution of judicial proceedings against such person for injunctive relief pursuant to R.S. 37:625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**§1393. Qualifications for Registration**

A. To be eligible for registration under this subchapter an applicant shall possess all of the substantive qualifications for licensure specified by R.S. 37:613 and §1305 and shall

be a graduate of a podiatry school or college approved by the board.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**§1395. Procedural Requirements**

A. In addition to the substantive qualifications specified in §1393, to be eligible for registration under this Subchapter an applicant shall:

1. submit to the board a completed application, upon forms supplied by the board, subscribed by the applicant and by the administrator or chief executive officer of the hospital or medical institution in which the PGY-1 program is to be conducted, accompanied by a recent photograph of the applicant;

2. make a personal appearance by appointment before a member of the board or its designee, or at the office of the board before its designated officer, and present evidence of the qualifications specified by §1393; provided, however, that an applicant who has completed his podiatric education but who does not yet possess a degree as required by R.S. 37:613(4) may be deemed eligible for registration upon submission to the board of a letter subscribed by the dean of an approved school or college of podiatry, certifying that the applicant has completed his academic and podiatric education at such school or college, that the applicant is a candidate for the degree of doctor of podiatric medicine or its equivalent at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded; and

3. pay all applicable fees and costs prescribed by the board.

B. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

**§1397. Issuance and Term of Registration**

A. If the qualifications, requirements, and procedures prescribed or incorporated by §1393 and §1395 are met to the satisfaction of the board, the board shall issue a certificate to the applicant evidencing his registration under this subchapter for enrollment and participation in a PGY-1 podiatric training program in the state of Louisiana.

B. Registration issued under this subchapter shall be effective on and as of the date on which an applicant's PGY-1 podiatric training program is to commence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:

Interested persons may submit written data, views, arguments, information or comments on the proposed rules and rule amendments until 4:00 p.m., February 21, 2003, to

John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, Post Office Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130).

John B. Bobear, M.D.  
Executive Director

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

**RULE TITLE: Podiatric Postgraduate Year  
One (Internship) Registration, Reinstatement,  
Continuing Medical Education**

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

The Board of Medical Examiners anticipates no increased costs associated with implementation of the proposed rules and rule amendments other than those relating to monitoring and auditing of the continuing medical education requirements, estimated to be \$1,400 in FY 2003 and in subsequent years. It is anticipated that \$1,728 will be expended in FY 2003 or the board's administrative expense for promulgation of this proposed Rule and final Rule.

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

It is not anticipated that the proposed Rules and Rule amendments will have any material effect on the revenue collections of the Board of Medical Examiners or any state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

Commencing in January 2005 podiatrists applying for initial podiatric licensure, estimated to be less than ten individuals annually, will be required to have completed at least one year of approved postgraduate podiatric training while applicants seeking renewal or reinstatement of Licensure will be required to obtain 20 hours of continuing medical education annually. Given the small number of new applicants requirement will be significant. Additionally, continuing medical education is available at no cost to podiatrists through a number of sources, and when assessed, the fee is typically \$15-\$20 per hour. It is estimated that the cost of obtaining continuing medical education may represent \$100-\$200 annually to an applicant. Finally, each such applicant will be required to document required continuing medical education in connection with licensure renewal or reinstatement resulting in minimal additional paperwork involving one additional form. The proposed rules should not, therefore, result in any material increase or reduction of costs or paperwork for such applicants. Conversely, it is anticipated that the postgraduate training and continuing medical education components of the proposed rules will generate a positive but undeterminable economic impact on issues and costs relating to quality of care which will inure to the benefit of the public podiatrists and the state.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

It is not anticipated that the proposed rules will have any impact on competition or employment in either that public or private sector.

John B. Bobear  
Executive Director  
0301#034

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

**Eligibility C Incurred Medical Expenses**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 (*Louisiana Register*, Volume 22, Number 5). Section I of the Medicaid Eligibility Manual explains the eligibility factors used to determine Medicaid eligibility, including consideration of medical expenses incurred by long term care facility residents as allowable deductions for the purpose of determining patient liability. In compliance with a recent clarification of federal regulations, the bureau has determined it is necessary to amend the provisions contained in Section I of the Medicaid Eligibility Manual governing the deductions allowed for medical expenses incurred by long term care facility residents. Therefore, the bureau proposes to adopt the following Rule to amend the provisions governing incurred medical expenses that may be considered allowable deductions in the determination of patient liability.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

**Proposed Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the May 20, 1996 Rule governing the treatment of medical expenses incurred by long term care facility residents in the determination of patient liability. Deductions for incurred medical expenses must be budgeted, just as income is budgeted, in the month that it is incurred.

**Long Term Care**

A. Allowable Deductions. The following criteria apply to all incurred medical expenses.

1. Deductions must be for an expense incurred by a long term care facility resident who is, or was, eligible for Medicaid vendor payment to a long term care facility during the month the expense was incurred.

2. Each deduction must be for a service or item prescribed by a medical professional (e.g., a physician, a dentist, optometrist, etc.) as medically necessary, and approved by the attending physician to be included as part of the facility's plan of care for the resident.

3. Documentation and receipts for the medical expenses shall contain:

a. the resident's name;

- b. the date of the service and/or purchase;
- c. the facility's name;
- d. the resident's Medicaid ID number; and
- e. an itemization of the medical service and/or purchase.

B. Non-Allowable Deductions. Deductions shall not be allowed for the following incurred medical expenses:

1. medical expenses incurred during a month in which the individual is/was not a resident of a long term care facility and eligible for vendor payment to the long term care facility;

2. prescription drugs not covered under the Medicaid Program, unless the prescribing physician has been notified that the drug is not covered by the Medicaid Program and has stated that an equivalent alternative that is covered cannot be prescribed;

3. expenses which are payable under Medicaid, except when documentation is presented to verify that the expense was denied by Medicaid due to service limitations;

4. expenses for services, equipment and supplies denied by Medicaid as not medically necessary;

a. services, equipment or supplies that require prior authorization for Medicaid payment must be submitted to the prior authorization unit for consideration;

5. expenses for services, equipment or supplies denied by Medicare as not medically necessary;

6. expenses for services, equipment or supplies provided as part of the long term care facility reimbursement rate (i.e., personal care needs, medical supplies, transportation, incontinent supplies, including disposable briefs or adult diapers, etc.);

7. expenses for cosmetics and over-the-counter skin care products;

8. expenses for supplies purchased for the convenience or preference of the long term care facility or the resident's family; or

9. cosmetic/elective procedures (i.e., face lifts or liposuction).

C. Deduction Limitations. The following deduction limitations apply to those medically necessary incurred expenses cited.

1. Dental Services. Deductions for dental services shall be limited to the maximum allowed under the established fee schedule that will be reassessed annually. The fee schedule is based on the BlueCross/BlueShield of Louisiana Key Dental Network Fee Schedule. Denture and denture repairs are subject to the service limits of the Adult Denture Program, unless exceptional medical necessity can be demonstrated. Exceptions to the seven year rule may be allowed as an incurred medical expense deduction when medical necessity can be shown. These exceptions are only allowed when traumatic injuries, surgery to the jaws or a disease causes a dramatic change to the oral condition that makes the original dentures unserviceable.

2. Eyeglasses. Deductions for eyeglasses not otherwise covered by the Medicaid Program are limited to \$150 annually. The deduction amount will be reassessed annually.

### 3. Hearing Aids

a. A one-time deduction, not to exceed \$800, is allowed. The deduction amount will be reassessed annually.

b. Hearing aids are approved only when there is a significant hearing loss documented by audiometric or electro physiologic data provided by a licensed physician. A prescription written by a physician or a licensed audiologist is required for the hearing aid (but not for ear molds or hearing aid repairs). The prescription must be dated within the previous six months and must contain medical clearance that use of a hearing aid device by the resident is not medically contra-indicated. The physician or licensed audiologist must also furnish a report including an audiogram, if applicable, all test results and the degree and type of hearing loss. A hearing loss greater than 20 decibels average hearing level is considered significant in hearing range 500-2000Hz frequency. Additional medical and social information in the report shall include:

- i. the recipient's age;
- ii. whether he/she has previously used a hearing aid;
- iii. whether he/she is currently using an aid and whether it can be repaired;
- iv. how long his/her hearing has been impaired; and
- v. any other pertinent information.

c. Hearing aids can be purchased from either a licensed audiologist or from a licensed hearing aid dispenser. A provision for training the recipient in the proper use and care of the hearing aid shall be a part of the purchase.

### D. Facility Responsibilities and Limitations

1. Nursing facilities will be considered a third party with presumptive liability for residents who report that medical items or equipment (i.e. dentures, hearing aids etc.) were lost or damaged in the facility. The facility shall be required to file a claim against its own insurance to recoup for the loss. When a nursing facility accepts a resident, they assume responsibility for the person as well as those personal items that are necessary for the resident's individual functioning.

2. Nursing facilities are prohibited from entering into profit sharing agreements with other providers for any services, supplies or equipment provided for under the incurred medical expenses deduction.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, February 25, 2003 in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood  
Secretary

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

**RULE TITLE: EligibilityC Incurred Medical Expenses**

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

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$208,548 for SFY 2002-03, \$1,100,369 for SFY 2003-04, and \$1,133,380 for SFY 2004-05. It is anticipated that \$378 (\$189 SGF and \$189 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$511,300 for SFY 2002-03, \$2,766,000 for SFY 2003-04, and \$2,848,980 for SFY 2004-05.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Deductions for medical expenses incurred by long term care facility residents will be considered as allowable for the purpose of determining patient liability relative to the total amount to be paid to the long term care facility. Implementation of this proposed Rule will increase expenditures in the long term care program by approximately \$719,470 for SFY 2002-03, \$3,866,369 for SFY 2003-04, and \$3,982,360 for SFY 2004-05.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no known effect on competition and employment.

David W. Hood  
Secretary  
0301#063

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

Food Stamp ProgramC 2002 Farm Bill  
(LAC 67:III.1917, 1932, 1949, 1953,  
1961, 1965, 1966, 1980, 1983 and 2013)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

Pursuant to Public Law 107-171, The Food Stamp Reauthorization Act of 2002, the agency is amending §§1932, 1961, and 1983, to comply with mandates issued by the U.S. Department of Agriculture, Food and Nutrition Service that were effective October 1, 2002. This law, also known as the 2002 Farm Bill, authorizes changes in: qualified alien regulations whereby disabled aliens are eligible for benefits for an unlimited period of time; excludable resources and resource limits in that the resource limit for a household containing a disabled member was raised to \$3,000 and Individual Development Accounts will be excluded as a countable resource; and the method in which the standard deduction is determined has been revised. A Declaration of Emergency effecting these changes was signed October 1, 2002, and published in the October issue of the *Louisiana Register*. Additionally, effective April

1, 2003, P.L. 107-171 mandates restoration of food stamp eligibility to legal immigrants who have lived in the United States as a qualified alien for five years or longer.

The Farm Bill also provides multiple options from which states may chose to apply to their programs. The agency proposes to incorporate several of these options by amending §§1965, 1966, 1980, and 2013 in an effort to create less burdensome reporting requirements for the client, simplify policy, reduce workloads, and improve quality. Amendments to these Sections will eliminate the current requirement to prorate the standard or basic utility allowances when households share living quarters; will include legally-obligated child support payments to non-household members as an income exclusion when determining gross income eligibility; and effective July 1, 2003, will include all households in semi-annual reporting except the homeless, migrant or seasonal farm worker households, and elderly or disabled households with 24-month certifications.

Additionally, the agency proposes to amend §§1917 and 1953 for grammatical reasons only.

**Title 67**

**SOCIAL SERVICES**

**Part III. Family Support**

**Subpart 3. Food Stamps**

**Chapter 19. Certification of Eligible Households**

**Subchapter B. Application Processing**

**§1917. Homeless Meal Provider**

A. - C. ...

D. Applicant meal providers must apply for approval at the Office of Family Support in their parish. An approval review at the provider's establishment will be conducted by the regional program specialist. After approval has been granted by OFS, the provider must then make application to an FNS field office to receive authorization to accept food stamp benefits.

E. - G ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq., 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:437 (August 1987), LR 13:287 (May 1987), amended by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998), LR 29:

**Subchapter D. Citizenship and Alien Status**

**§1932. Time Limitations for Certain Aliens**

A. - A.5. ...

B. The following qualified aliens are eligible for an unlimited period of time:

1. - 3. ...

4. effective October 1, 2002, individuals who are lawfully residing in the United States and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997;

5. - 6. ...

7. effective April 1, 2003, individuals who have been lawful, permanent residents or otherwise qualified aliens for at least five years beginning on the date the immigrant was designated as a qualified alien by the Immigration and Naturalization Service.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, P.L. 105-185, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711 (April 1999), LR 29:

## **Subchapter H. Resource Eligibility Standards**

### **§1949. Exclusions from Resources**

A. The following are excluded as a countable resource:

1. - 4. ...

5. effective October 1, 2002, an Individual Development Account (IDA) which is a special account established in a financial institution for specific purposes.

B. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387, 45 CFR 263.20, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 13:656 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 21:186 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002), LR 29:

## **Subchapter I. Income and Deductions**

### **§1953. Income Eligibility Standards**

A. The income eligibility standards for the Food Stamp Program shall be as follows:

1. - 3. ...

4. The income eligibility limits, as described in this Paragraph, are revised annually to reflect OMB's annual adjustment to the nonfarm poverty guidelines for the 48 states and the District of Columbia, for Alaska, and for Hawaii.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 29:

### **§1961. Adjustment of Standard Deduction**

A. Effective October 1, 2002, the standard deduction shall be set at 8.31 percent of the poverty level based on household size of up to six persons with a minimum deduction of \$134. The standard deduction will be adjusted in accordance with directives from the United States Department of Agriculture, Food and Nutrition Service.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 29:

### **§1965. Standard Utility Allowance (SUA)**

A. - B. ...

C. The full standard utility allowance shall be allowed to all parties who contribute to the utility costs when the household shares a residence and utility costs with other individuals.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:51551 et seq., 7 CFR 272 and 273.9, P.L. 104-193, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 21:187 (February 1995), LR 23:82 (January 1997), LR 24:108 (January 1998), LR 29:

### **§1966. Basic Utility Allowance (BUA)**

A. Households which do not incur heating or cooling costs separate and apart from their rent or mortgage use a mandatory single Basic Utility Allowance (BUA). To be eligible, a household must be billed on a regular basis for utility costs. Any household living in a housing unit which has central utility meters and which charges the household for excess utility costs only shall use the BUA. The full basic utility allowance shall be allowed to all parties who contribute to the utility costs when the household shares a residence and utility costs with other individuals.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 107-171

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), LR 29:

### **§1980. Income Exclusions**

A. - B. ...

C. Legally obligated child support payments to non-household members are excluded when determining eligibility based on gross income standards.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:186 (February 1995), amended LR 23:82 (January 1997), LR 29:

### **§1983. Income Deductions and Resource Limits**

A. - A.3.a. ...

B. The resource limit for a household is \$2,000, and effective October 1, 2002, the resource limit for a household that includes at least one elderly or disabled member is \$3,000.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 13:181 (March 1987), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:905 (July 1993), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 29:

## **Subchapter R. Semi-Annual Reporting**

### **§2013. Semi-Annual Reporting**

A. Effective July 1, 2003, all households shall submit a reporting form to the agency on a semi-annual basis with the following exceptions:

1. - 2. ...

3. elderly, disabled households with 24-month certification periods.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a), P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:867 (June 2001), amended LR 28:103 (January 2002), LR 29:

#### **Family Impact Statement**

1. What effect will this Rule have on the stability of the family? Implementation of this Rule will have little impact on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and

rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? Family earnings and budget should be positively affected by changes to the income exclusions, standard utility allowance, and resource limits.

5. What effect will this have on the behavior and personal responsibility of children? There will be no effect on the behavior and personal responsibility of the children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

All interested persons may submit written comments through February 27, 2003, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed Rule will be held on February 27, 2003, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton  
Secretary

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

**RULE TITLE: Food Stamp ProgramC 2002 Farm Bill**

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

The proposed action will increase state costs by making more Food Stamp applicants eligible. It is estimated that federal food stamp benefits could increase by \$4,753,500 for FY 02/03 and \$8,482,500 for FY 03/04 and continuing. The administrative cost for expanding semi-annual reporting is estimated to be \$271,656 half of which is funded with federal monies and half with state funds. The total estimated cost for FY 03/04 and continuing is \$8,754,156. The cost of publishing the Rule and printing policy changes and form revisions is estimated to be \$4,020 and routinely included in the agency's annual budget. There will be no costs to local governmental units.

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

The proposed Rule will have no impact on revenue collections for state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs to any persons or non-governmental groups as a result of this proposed Rule.

Persons who are determined eligible for food stamp benefits as a result of these proposed changes could realize economic benefits totaling approximately \$4,753,500 for FY 02/03 and \$8,482,500 for FY 03/04 in the form of food stamp

benefits. These benefits will recur annually. Non-governmental groups will not be impacted economically by this Rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule will have no impact on competition or employment.

Ann S. Williamson  
Assistant Secretary  
0301#041

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Treasury  
Board of Trustees of the State  
Employees' Retirement System**

**DROPC Legislative Required Changes and Additions  
(LAC 58:I.2713, 3503, 3505, 3519 and 3701-3705)**

Under the authority of R.S. 11:515 and in accordance with R.S. 49:951 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") advertises its intent to amend and reenact LAC 58:I.2713 3503, 3505, 3519 and to enact Chapter 37, Sections 3701-3705 relative to the actuarial conversion of leave to its cash value. The proposed amendments to the Rules change the manner for disbursements from the DROP accounts, and certain provisions of the Optional Retirement Plan (ORP) required by Act 136 of the First Extraordinary Session of 2002, and to enact provision to control the actuarial conversion of leave to its cash value. The proposed amendments and enactments have no impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

**Title 58  
RETIREMENT**

**Part I. State Employees' Retirement System**

**Chapter 27. DROP Program**

**Subchapter C. Withdrawal**

**§2713. Time for Disbursement**

A. The DROP account must be totally disbursed within the expected lifetime of the participant in accordance with federal laws. The expected lifetime is determined based on the age of the participant on the date of termination. All funds from the DROP account must be withdrawn in accordance with the Internal Revenue Services Guidelines.

B. - C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 11:515.

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), amended LR 29:

**Chapter 35. Optional Retirement Plan**

**§3503. Participation**

A. The following state employees shall be eligible to make an irrevocable election to participate in the optional retirement plan:

1. any unclassified state employee who is appointed by a statewide elected official and whose appointment is subject to confirmation by the Louisiana Senate;

2. any unclassified state employee who is a member of the immediate staff of any such employee described in Paragraph 1 of this Section;

3. the chief executive officer of the State Employee Group Benefits Program;

4. any member of the executive career service establishment by the State Civil Service Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000), amended LR 29:

#### **§3505. Election to Participate**

A. An irrevocable election to participate in the ORP must be made in writing and filed with the system within 90 days after the eligible employee begins work. Elections shall be effective as of the date of appointment. If an eligible employee fails to make an election to participate in the ORP within 90 days of appointment, he shall become a member of the defined benefit plan as of the date of appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000), amended LR 29:

#### **§3519. Sunset**

A. Currently the law provides that the authority to enroll eligible unclassified employees in the ORP shall terminate on December 7, 2003. Those eligible unclassified employees who enroll or transfer prior to that date shall continue participation in the ORP in accordance with the provisions of the ORP even after that date. There is no sunset provision for the executive career services employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000), amended LR 29:

### **Chapter 37. Leave Conversion to Retirement Credit or Cash Payment**

#### **§3701. Conversion of Leave to Retirement Credit**

A. All annual and sick leave certified by the employee's employing agency to be accrued in accordance with the leave accrual rates established by the Department of State Civil Service and for which payment cannot be made in accordance with law at the time of retirement shall be credited to the employee and may be converted to retirement credit in accordance with R.S. 11:424.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:

#### **§3703. Lump Sum Payment of Leave**

A. An employee, in lieu of conversion of leave to retirement credit, may request in writing that he be paid the actuarial value of such leave, as determined by the retirement system's actuary, in a lump sum cash payment. The employee shall be paid the actuarial value of the

conversion of leave to cash. This lump sum cash payment shall be paid to the employee on the first of the month after all pertinent documentation is received from the employee's employing agency needed to finalize the employee's retirement benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:

#### **§3705. Tax Liability**

A. The employee requesting the lump sum cash conversion of leave shall be solely responsible for any tax consequences of this decision, and the employee must acquire any tax advice from a private source (CPA or tax attorney) as LASERS shall not be responsible for any tax liability that may impact the employee as a result of the decision to take a lump sum cash distribution of leave in lieu of converting leave to retirement credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:

Interested persons may submit written opinions, suggestions or data to Kevin P. Torres, General Counsel, Louisiana State Employees' Retirement System, 8401 United Plaza Boulevard, Room 145, Baton Rouge, LA 70809, 4:30 p.m. through, March 20, 2003.

Robert L. Borden  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: DROP Legislative Required Changes and Additions**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

No implementation cost to the state or local governmental units are anticipated because of the proposed Rules.

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

These regulations will have no impact on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated cost and/or economic benefits that should effect any persons or nongovernmental group as a result of these Rules.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated impact on competition and employment as a result of these Rules.

Robert L. Borden  
Executive Director  
0301#022

H. Gordon Monk  
Staff Director  
Legislative Fiscal Office