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**Title 33**
**ENVIRONMENTAL QUALITY**

# Part VII. Solid Waste

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# Title 33
# ENVIRONMENTAL QUALITY
# Part VII. Solid Waste
# Subpart 1. Solid Waste Regulations

## Chapter 1. General Provisions and Definitions

### §101. Scope and Purpose

A. The Louisiana Legislature recognizes that the safety and welfare of citizens "require efficient and reasonable regulation of solid waste disposal practices as well as a coordinated, statewide resource recovery and management program" (R.S. 30:2152). Therefore, the Department of Environmental Quality has formulated these rules and regulations to:

1. establish standards governing the storage, collection, processing, recovery and reuse, and disposal of solid waste;

2. implement a management program that will protect the air, groundwater, and surface water, and the environment from pollution from solid wastes and thus eliminate the potential threat to human health from such pollution;

3. encourage both citizens and industry to reduce the amount of waste developed and generated in the state.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

### §103. Authority

A. The Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) established the enforcement authority and procedures for carrying out the purposes of the Act. These rules and regulations were developed under the authority of the secretary of the Department of Environmental Quality, as mandated by the Louisiana Solid Waste Management and Resource Recovery Law (R.S. 30:2151 et seq.). The Louisiana Solid Waste Operator Certification and Training Program statutes (R.S. 37:3151 et seq.) created the Louisiana Solid Waste Operator Certification and Training Program. The principal domicile of the board shall be that of the Department of Environmental Quality.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

### §107. Effective Date

A. These rules and regulations shall be effective on June 20, 2007. Unless otherwise directed in writing by the department, applicants that have submitted permit applications or requests for modifications or renewals prior to the effective date of these rules and regulations shall not be required to revise their previously submitted applications or requests to address these rules and regulations. The administrative authority reserves the right to require revisions (limited to numbering and formatting) to previously submitted permit applications, modification requests, or renewals that have not received final approval by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

### §109. Severability

A. If any provision of these rules and regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act and these regulations that can be given effect without the invalid provision or application, and to this end provisions of these rules and regulations are declared to be severable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

### §110. Confidentiality

A. Provisions for confidential information may be found in LAC 33:I.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 22:344 (May 1996), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

### §111. Review of the Rules and Regulations

A. The department shall review these rules and regulations periodically for their effectiveness in meeting the purposes set forth in LAC 33:VII.101.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1018 (June 2007).

## §112. Division of Responsibility

A. The administrative authority is responsible for the following:

1. identifying solid waste processing and disposal facilities;

2. classifying such facilities for closure or upgrade;

3. performing all necessary regulatory operations, including:

a. operating the permit system;

b. surveillance and monitoring to determine facility compliance; and

c. initiating and processing enforcement actions when necessary to meet the purposes of these regulations;

4. soliciting, administering, and distributing federal, state, and other funds; and

5. entering into contracts as necessary to carry out the mandates of the Act.

B. Municipalities, parishes, and regional commissions are responsible for the following:

1. planning and operating necessary collection facilities and collection systems, including recycling programs, and delivering solid waste to permitted processing or disposal facilities;

2. planning and operating permitted processing and/or disposal facilities while cooperating with the department, or other entities, to implement regional management systems;

3. providing necessary financial support for the regional management systems through fees or other means;

4. administering supplementary funds received from federal or state sources through the administrative authority; and

5. entering into contracts when necessary to provide for maximum efficiency of the program.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007).

## §113. Public Information Service

A. Responses to Suggestions and Complaints. The department shall respond to complaints and suggestions and disseminate all pertinent information concerning solid waste. Information shall be disseminated by letter, electronic, or telephone communication in response to direct inquiries and through a departmental bulletin issued periodically that will include lists of permits, enforcement actions, and similar information of general interest, if such a bulletin is available.

B. Public Hearings. A transcript of all discussions, presentations, and comments submitted shall be prepared after each hearing and made available to all who request it, in accordance with R.S. 44:1 et seq.

C. Mailing List. The department shall maintain a mailing list of groups or individuals interested in public hearings and other such activities of the Office of Environmental Services.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1019 (June 2007), LR 33:2140 (October 2007).

## §114. Assignment and Reassignment of Responsibilities

A. Assignment of New Responsibilities. The administrative authority may assign to local authorities new responsibilities required to implement elements of the program not assigned in LAC 33:VII.112.B.

B. Reassignment of Responsibilities. The administrative authority may reassign responsibilities within the department or to local authorities in LAC 33:VII.112.B as may be deemed necessary to operate the program more effectively.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007).

## §115. Definitions

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

*100-Year Flood*—a flood that has a 1 percent or greater chance of occurring in any year, or a flood of a magnitude equaled or exceeded once in 100 years on average over a significantly long period.

*Abandonment*—to leave behind or desert solid waste at a location without adhering to the proper disposal or processing standards required by these regulations. Storage of solid waste in accordance with the storage standards provided by these regulations does not constitute abandonment.

*Access Road*—a passageway for vehicles leading from the entrance of a facility to each unit of the facility.

*Act*—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

*Administrative Authority*—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

*Agricultural Waste*—nonhazardous waste resulting from the production and processing of agricultural products, including manures, prunings, and crop residues. Some examples of *agricultural wastes* are included in LAC 33:VII.3015.Appendix H. This term does not include solid wastes defined as industrial solid waste in this Section.

*Air Curtain Destructor*—a device that forcefully projects a curtain of air across an open chamber or open pit in which combustion occurs. Destructors of that type can be constructed above or below ground and with or without refractory walls or floor. *Air curtain destructors* are also referred to as bit burners, trench burners, and air curtain incinerators.

*Animal Feed*—any crop, such as pasture crops, forage, and grain, grown for consumption by animals.

*Applicant*—any person who intends to be a standard permit-holder for a solid waste processing and/or disposal facility and who has submitted a permit application to the Department of Environmental Quality.

*Aquifer*—a continuous geologic formation, group of formations, or part of a formation that contains enough saturated permeable materials to yield significant quantities of water to wells or springs. For the purposes of these regulations, a *significant quantity of water* is enough water to yield a groundwater sample within 24 hours after purging a monitoring well.

*Areas Susceptible to Mass Movement*—those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the facility, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

*Asbestos-Containing Waste—regulated asbestos-containing material (RACM)*, as defined in LAC 33:III.5151.B, and/or non-RACM (asbestos-containing material that is not RACM) that is discarded.

*Assessment Well*—see Monitoring Well.

*Assets*—all existing and all probable future economic benefits obtained or controlled by a particular entity.

*Autoclave*—steam sterilization at a temperature of at least 250°F and a pressure of at least 15 pounds per square inch for at least 30 minutes. Longer times are required depending on the amount of waste, the presence of water, and the type of container used. Alternate patterns of temperature, pressure, and time may be used if compatible with the sterilization equipment being used and demonstrably sufficient to kill disease-causing microorganisms.

*Background Soil pH*—the pH of unimpacted soil in the vicinity of the solid waste facility before the addition of substances that alter the hydrogen-ion concentration (see *Soil pH*).

*Bailing*—a method of obtaining samples of water from a groundwater monitoring well by lowering and raising a weighted bottle, capped length of pipe, or similar device.

*Baler*—a facility that mechanically compacts and binds, or wraps, a solid waste into bundles, called bales, for convenient handling, storage, and shipping.

*Beneficial Use*—the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

*Board of Certification and Training*—a board for the certification and training of operators of systems or facilities for the disposal of commercial and residential solid waste (established by R.S. 37:3151 et seq.).

*Clean Closure*—the act of closing a facility whereby all solid waste is removed, including contamination that results from solid waste placement.

*Closure*—the act of securing a facility that has been used to process, store, or dispose of solid waste in a manner that minimizes harm to the public and the environment.

*Closure Permit*—written authorization issued by the administrative authority to a person for the closure of a facility used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

*Closure Plan*—a plan for closure and/or post-closure of a facility prepared in accordance with the requirements of LAC 33:VII.Subpart 1.

*Coastal Zone*—the coastal waters and adjacent shorelands within the boundaries of the *coastal zone* established by the State and Local Coastal Resources Management Act of 1978 (R.S. 49:213.1-213.12).

*Collect*—to accumulate industrial solid waste or solid waste generated by more than one household or commercial establishment, or by a storage or processing facility.

*Collection Facility*—a facility, at which one or more containers are located, that is used to accumulate solid waste generated by and delivered by more than one household or commercial establishment for pickup by a transporter, including, but not limited to, facilities typically located in rural areas where garbage collection does not occur. This definition does not include containers that receive only solid waste generated on property that is contiguous with the property on which the container is located (e.g., containers located at and receiving solid waste only from a multiunit dwelling or a commercial establishment or an industrial establishment).

*Commercial Establishment*—a business, including its structures and property, that is involved in the exchange or distribution of goods or commodities, or that rents, leases, or sells space for such activities.

*Commercial Solid Waste*—all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial solid wastes.

*Compactor*—a solid waste facility, other than collection and transportation vehicles, that reduces a solid waste volume by mechanical compaction to achieve a higher density.

*Compost*—a solid waste that has undergone biological decomposition of organic matter and has been stabilized using composting or similar technologies, to a degree that is beneficial to plant growth, and that is used, or sold for use, as a soil amendment, artificial topsoil, growing-medium amendment, or other similar uses.

*Composting*—a controlled process of degrading organic matter with microorganisms.

*Composting Facility*—a facility where organic matter is processed by natural or mechanical means to aid the microbial decomposition of the organic matter.

*Construct*—to build, erect, excavate, or form any portion of a solid waste facility.

*Construction/Demolition (C&D) Debris*—nonhazardous waste generally considered not water-soluble that is produced in the process of construction, remodeling, repair, renovation, or demolition of structures, including buildings of all types (both residential and nonresidential). Solid waste that is not *C&D debris* (even if resulting from the construction, remodeling, repair, renovation, or demolition of structures) includes, but is not limited to, *regulated asbestos-containing material (RACM)* as defined in LAC 33:III.5151.B, white goods, creosote-treated lumber, and any other item not an integral part of the structure.

*Contamination (Environmental)*—the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

*Contamination (Solid Waste)*—the admixture of any solid waste with any amount of hazardous waste, or any other type of waste not meeting the definition of solid waste.

*Contour Lines*—lines connecting points of equal elevation used on topographic or other maps.

*Cover Material*—soil, or other suitable material approved by the administrative authority, applied on the top and side slopes of disposed solid waste to control vectors, gases, erosion, fires, and infiltration of precipitation; to support vegetation; to provide trafficability; or to ensure an aesthetic appearance.

*Crops for Human Consumption*—crops grown for human consumption that are not processed to minimize pathogens before they are distributed to consumers.

*Curing Area*—an area where organic material that has undergone the rapid initial stage of composting is further stabilized into a humus-like material.

*Current Assets*—cash, other assets, or resources commonly identified as those which are reasonably expected to be realized in cash, sold, or consumed during the normal operating cycle of the business.

*Current Liabilities*—obligations whose liquidation is reasonably expected to require the use of existing resources, properly classifiable as current assets, or the creation of other current liabilities.

*Daily Cover*—cover material applied at the end of the operating day to a unit, the working face of a unit, or a facility.

*Department*—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

*Disease Vector*—animals such as rodents, and fleas, flies, mosquitoes, and other arthropods, that are capable of transmitting diseases to humans.

*Displacement*—the relative movement of any two sides of a fault measured in any direction.

*Disposal*—the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste on or into any land or water so that such solid waste, or any constituent thereof, may have the potential for entering the environment or being emitted into the air or discharged into any waters of Louisiana. Abandonment of solid waste, whether or not it comes into contact with land or water, is also considered *disposal*.

*Ditch*—an earthen trench or excavation principally used to convey wastewaters without regard to whether solids settling or treatment of wastewater occurs therein.

*Emergency Exemption*—a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or any portion thereof for a specified period of time, owing to emergencies such as strikes or acts of God.

*Emergency Response Plan*—an organized, planned, coordinated course of action to be followed in the event of a fire, explosion, natural disaster, or discharge or release of waste into the environment that could endanger human health or the environment.

*EPA*—the U.S. Environmental Protection Agency.

*Estimated Life of Facility*—the length of time a solid waste facility is projected to be capable of accepting wastes, based on its current permit or permit application.

*Exemption*—a special authorization issued to a person by the administrative authority that allows freedom from obligation to these regulations or a portion thereof.

*Existing Facility*—any *facility*, as defined in this Subsection, that receives solid waste or that exists or is being constructed on February 20, 1993, that does or will store, process, or dispose of solid wastes. (Facilities closed prior to

January 20, 1981, or facilities that have completed the closure/post-closure requirements prior to February 20, 1993, are not considered *existing facilities*.)

*Existing Operation*—any solid waste operation that manages, collects, stores, processes, or receives solid waste that exists or that is being constructed on February 20, 1993. (Operations closed prior to January 20, 1981, or operations that have completed the closure and/or post-closure requirements prior to February 20, 1993, are not considered existing operations.)

*Exploration and Production Waste (E&P Waste)*—drilling wastes, salt water, and other wastes that are associated with the exploration, development, or production of crude oil or natural gas wells and that are not regulated by the provisions of, and are therefore excluded from, the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act Subtitle C, as amended.

*Facility*—actual land and associated appurtenances used for storage, processing, and/or disposal of solid wastes, but possibly consisting of one or more units. (Any earthen ditches leading to or from a unit of a facility and that receive solid waste are considered part of the facility to which they connect, except for ditches lined with materials capable of preventing groundwater contamination. The term *facility* does not necessarily mean an entire industrial manufacturing plant.)

*Fault*—a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to those on the other side.

*Final Cover*—cover material that is applied to minimize the infiltration of precipitation in a facility and revegetated to control erosion.

*Final Grade*—the maximum elevation allowed by the permit at any given time.

*Flood Plain*—the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood.

*Food-Chain Crops*—crops grown for human consumption; tobacco; and crops grown to feed animals that are consumed by humans.

*Freeboard*—the vertical distance between the lowest point of the top of a facility levee and the surface of the liquid waste contained therein.

*Freshwater Aquifer*—an aquifer containing water with quantities of total dissolved solids of less than 10,000 mg/L that is capable of yielding usable quantities of groundwater to drinking-water wells, industrial pumps, springs, or streams.

*Garbage*—solid waste that includes animal and vegetable matter from the handling, preparation, cooking, and serving of foods (including grease trap waste), but that does not include industrial solid waste.

*General Permit*—written authorization issued by the administrative authority to allow for a specific activity or type of operation, not based on a specific site, to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

*Generator*—any person whose act or process produces solid waste as defined in these regulations.

*Geotechnical Borehole*—an exploratory borehole drilled, augered, bored, or cored to obtain soil samples to be analyzed for chemical and/or physical properties.

*Groundwater*—water located beneath the ground surface or below a surface water body in a saturated zone or stratum.

*Hazardous Waste*—waste identified as hazardous in the current Louisiana hazardous waste regulations (LAC 33:V.Subpart 1) and/or by the federal government under the Resource Conservation and Recovery Act and subsequent amendments.

*Hazardous Waste Determination*—the process performed in accordance with LAC 33:V.1103.

*Holocene*—the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch, i.e., 10,000 years ago, to the present.

*Implement*—to carry out, accomplish, and ensure actual fulfillment by specific means or by providing instruments or means of accomplishment.

*Implementation Schedule*—a timetable for completing a predetermined implementation plan.

*Impoundment*—see *Surface Impoundment*.

*Inactive (or Abandoned) Facility*—a solid waste storage, processing, or disposal facility that no longer receives solid waste and has not been closed in accordance with Louisiana Solid Waste Regulations.

*Incinerator*—any enclosed device using controlled-flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace, and is not a *boiler* or an *industrial furnace* as defined in LAC 33:V.109.

*Incinerator Ash*—residual solid waste that has been received, thermally oxidized, and/or decomposed by an incinerator.

*Incinerator Waste-Handling Facility*—a facility that processes solid waste by thermally oxidizing and/or decomposing the solid waste in an incinerator.

*Incorporation into Soil*—the injection of solid waste beneath the surface of soil, or the mixing of solid waste with the surface soil.

*Industrial Establishment*—a business, including its structures and property, that is involved in the production or manufacture of goods or commodities.

*Industrial Solid Waste*—solid waste generated by a manufacturing, industrial, or mining process, or that is

contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term does not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste that is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

*Industrial Solid Waste Facility*—a facility for the processing, storage, and/or disposal of industrial solid waste.

*Infectious Waste*—waste that contains pathogens of sufficient virulence and quantity that exposure to it could result in an infectious disease in a susceptible host.

*Initial Promulgation*—the date on which the Louisiana Solid Waste Management Program first became effective, January 20, 1981.

*Interim Compacted Cover*—a minimum of 2 feet of compacted silty or sandy clay.

*Interim Cover*—a minimum of 1 foot of soil that is applied to a portion of a unit or a facility.

*Isopach*—a line drawn on a map through points of equal true thickness of a designated stratigraphic unit or group of stratigraphic units.

*Isopach Map*—a map that shows the thickness of a bed, formation, sill, or other tabular body throughout a geographic area by means of isopachs at regular intervals.

*Karst Terrains*—areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in *karst terrains* include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

*Landfarm*—a facility for the disposal of solid wastes in which wastes are applied to the land and/or incorporated into the soil for biological reduction and soil attenuation.

*Landfill*—a facility for the disposal of solid waste, other than landfarm(s) or surface impoundment(s), that disposes of solid waste by placing it on or into the land surface and usually also compacting and covering with suitable cover material to a depth and at a frequency sufficient to control disease vectors and odors and in a manner that protects human health and the environment.

*Leachate*—a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, or miscible materials removed from such wastes.

*Leak-Detection Well*—a well used to determine the escape of liquids from a permitted solid waste facility.

*Liabilities*—probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

*Liner*—layer or layers of material(s) beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

*Liquid Waste*—any waste material that is determined to contain free liquids as defined by Method 9095B (Paint Filter Liquids Test), as described in *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods* (EPA Pub. SW-846), which is incorporated by reference. A suffix of “B” in the method number indicates revision two (the method has been revised twice). Method 9095B is dated November 2004.

*Lithified Earth Material*—all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface.

*Litter*—exposed solid waste outside the active portion of a unit of a facility.

*Lower-Explosive Limit*—the lowest percent by volume of a mixture of explosive gases in the air that will propagate a flame at 25 degrees Centigrade and at atmospheric pressure.

*Major Modification*—any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

*Mandatory Modification*—any change in a site, facility, unit, process or disposal method, or operation that is required as a result of the solid waste regulations as promulgated on February 20, 1993.

*Manure*—a solid waste composed of excreta of animals and any residual materials that have been used for bedding, sanitary, or feeding purposes for such animals.

*Maximum Horizontal Acceleration in Lithified Earth Material*—the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

*Mesophilic Stage*—a biological stage in the composting process characterized by active bacteria which favor a moderate temperature range of 20 to 45 degrees Centigrade. It occurs later in the composting process than the thermophilic stage and is associated with a moderate rate of decomposition.

*Minor Modification*—any modification that does not meet the criteria for a major modification.

*Modification*—any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a *modification*. A change in the name of the facility does not constitute a *modification*.

*Monitoring Well*—any permanent cased hole that is drilled, augered, bored, cored, driven, washed, dug, jetted, or otherwise constructed to obtain hydrologic and water quality data, which is usually installed at or near a known or potential source of groundwater contamination to satisfy regulatory requirements for groundwater monitoring at regulated units.

*Municipal Solid Waste Landfill* or *MSW Landfill*—an entire disposal facility in a contiguous geographical space where residential solid waste and/or commercial solid waste is placed in or on land.

*Net Worth*—total assets minus total liabilities and equivalent to the person's equity.

*NGVD*—National Geodetic Vertical Datum.

*Non-Processing Transfer Station*—a solid waste facility where solid waste is transferred directly or indirectly from collection vehicles to other vehicles for transportation without processing, except compaction used for the reduction of volume in waste (see *Process*).

*Off-Site Location*—land, and appurtenances thereon, used for processing and/or disposal of solid waste and not located on, or contiguous to, the property where the waste is generated. Two or more pieces of property that are geographically contiguous but divided by public or private rights-of-way are considered a single site.

*Off-Site Processing/Disposal Area*—a location for the processing and/or disposal of solid waste that is not on the generator's site.

*On-Site Processing/Disposal Area*—the land area and appurtenances thereon used for processing and/or disposal of solid waste on the same property or on geographically contiguous property, where waste is generated. Two or more pieces of property that are geographically contiguous but divided by public or private rights-of-way are considered a single site.

*Open Burning*—the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of the emission of the combustion products.

*Open Dump*—a solid waste processing or disposal facility that has been issued a temporary permit and may not comply with the standards set by these regulations.

*Operating Area*—the portion of a facility that is actively involved in the storage, processing, or disposal of solid waste.

*Operator*—a person who is responsible for the overall operation of a facility or part of a facility.

*Order Authorizing Commencement of Operations*—a written authorization issued by the administrative authority after a permit-holder has completed all upgrading measures or completed construction measures, provided the required certification and a successful initial start-up inspection has been conducted by a representative of the department.

*Owner*—a person who owns a facility or part of a facility.

*Parent Corporation*—a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility permit holder; the latter corporation is deemed a "subsidiary" of the *parent corporation*.

*Permit*—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure, or post-closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

*Permittee/Permit Holder*—a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

*Person*—an individual, trust, firm, joint-stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

*pH*—the logarithm of the reciprocal of hydrogen-ion concentration.

*Piezometer*—a nonpumping well used to measure the elevation of the water table or potentiometric surface.

*Pilot Hole*—a hole drilled with the intent to install casing and to produce water. It is usually of a smaller diameter than the proposed well and has to be reamed to a larger diameter for the installation of a casing and screen.

*Poor Foundation Conditions*—those areas where features exist that indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a facility.

*Potable Water*—water with bacteriological, physical, and chemical properties that make it suitable for human consumption.

*Potentiometric Map*—a map displaying contour lines of the potentiometric surface of a particular aquifer that may be used to determine groundwater gradient or direction of flow.

*Potentiometric Surface*—a surface that represents the level to which groundwater in a particular aquifer or permeable zone will rise in tightly cased wells, expressed

with reference to a specified datum, such as the National Geodetic Vertical Datum (NGVD) (see also *Water Table*).

*Practices*—acts of storing, processing, collecting, transporting, or disposing of solid wastes.

*Principal Executive Officer*—the chief executive officer of a state or federal agency, or a senior executive officer having responsibility for the overall operations of a principal geographic or functional unit of a state or federal agency [ex: regional administrators of EPA].

*Process*—a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle or at a non-processing transfer station), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique that is designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, or amenable for recovery, storage, reshipment, or resale. The definition of *process* does not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither does the definition include activities of an industrial generator to simply separate wastes from the manufacturing process, nor does it include separating recyclable material from commercial waste streams at a *non-processing transfer station*.

*Promiscuous Dump*—a solid waste disposal facility that has resulted from disposal activities of persons other than the landowner and whose operation is not permitted by the administrative authority.

*Putrescible*—susceptible to rapid decomposition by bacteria, fungi, or oxidation, creating noxious odors.

*Reclassified Waste*—a particular solid waste that the administrative authority has determined is no longer classified as a hazardous waste subject to regulation under the Louisiana hazardous waste regulations. Such wastes are "reclassified" as solid waste and are subject to regulation under these regulations.

*Recovery Well*—a well used to remove groundwater that has been determined to be contaminated.

*Refuse-Derived Fuel*—fuel processed from combustible solid waste.

*Refuse-Derived Fuel Facility*—a solid waste facility where fuel is processed from combustible solid waste.

*Regulated Asbestos-Containing Material (RACM)*—see definition in LAC 33:III.5151.B.

*Regulatory Permit*—written authorization promulgated into the solid waste regulations for the construction, installation, modification, operation, closure, or post-closure of a facility used or intended to be used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

*Residence*—a single or multiunit dwelling, whether owned, leased, or rented by its occupant(s).

*Residential Solid Waste*—any solid waste (including garbage, trash, yard trash, and sludges from residential septic tanks and wastewater treatment facilities) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

*Resource Recovery*—the process by which solid waste that retains useful physical or chemical properties is reused or recycled for the same or other purposes, including uses as energy sources.

*Responsible Corporate Officer*—one of the following persons employed by the corporation: president; treasurer; secretary; vice-president in charge of a principal business function; or any other person who performs similar policy or decision-making functions of the corporation; or the manager of one or more manufacturing, production, or operating facilities, provided that the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term environmental compliance with environmental laws and regulations, and can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit applications, and the manager has the authority to sign documents assigned or delegated in accordance with corporate procedures. The administrative authority will assume that these corporate officers have the requisite authority to sign permit applications and certifications unless the corporation has notified the administrative authority to the contrary.

*Responsible Official*—the person who has the authority to sign applications for permits and certifications of compliance. For corporations, this person shall be a r*esponsible corporate officer*. For a partnership or sole proprietorship, this person shall be a partner or the proprietor, respectively. For a municipality, state agency, federal agency, or other public agency, this person shall be a ranking elected official or a p*rincipal executive officer* of a state or federal agency.

*Runoff*—any rainwater, leachate, or other liquid that drains from any part of a facility.

*Run-On*—any rainwater or other liquid that drains onto any part of a facility.

*Salvaging*—the controlled removal of waste materials for later use.

*Saturated Permeable Zone*—the subsurface zone in which all interconnected openings are full of liquid.

*Scavenging*—unauthorized removal of solid waste materials from a disposal or processing facility.

*Seismic-Impact Zone*—an area with a 10 percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10 g in 250 years.

*Separation Facility*—a Type III solid waste processing facility at which recyclables are separated from a nonputrescible solid waste stream for future use. The nonputrescible waste stream received by the separation facility shall not contain more than a de minimis amount of putrescible waste.

*Septage*—the contents of a septic tank, cesspool, or other individual sewage-treatment facility that receives domestic-sewage wastes.

*Service Area*—the geographic area serviced by a solid waste facility in which solid waste is generated, collected, and transported for delivery to that solid waste facility.

*Sewage Sludge*—sludge resulting from treatment of wastewater from publicly or privately owned or operated sewage-treatment plants.

*Shredder*—a solid waste facility that reduces the particle size of solid waste by grinding, milling, shredding, or rasping.

*Silty Clay*—soils that meet the group designations of *CL* or *CH* in the Unified Soil Classification System as contained in the American Society for Testing and Materials (ASTM) standard D2487-06e1.

*Site*—the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A *site* may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

*Sludge*—residue produced by or precipitated from a treatment process.

*Soil pH*—a pH value obtained by sampling the soil to the depth of cultivation or solid waste placement. Test methodologies shall be in accordance with *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods* (EPA Pub. SW-846).

*Solid Waste*—any garbage, refuse, or sludge from a waste treatment plant, water-supply treatment plant, or air pollution-control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, agricultural operations, and from community activities, and construction/demolition debris. *Solid waste* does not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows or industrial discharges that are point sources subject to permits under R.S. 30:2074; source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended (42 U.S.C. Section 2011 et seq.); or hazardous waste subject to permits under R.S. 30:2171 et seq.

*Solid Waste Management System*—the entire process of collection, transportation, storage, processing, and disposal of solid waste by any person engaged in such process as a business or by any municipality, authority, trust, parish, or any combination thereof.

*Spill*—any unauthorized discharge or release of solid waste into or onto the land, air, or water.

*Stabilized (Compost)*—compost that has at least passed through the thermophilic stage and in which biological decomposition of the solid waste has occurred to a sufficient degree to allow beneficial use.

*Standard Permit*—written authorization issued by the administrative authority to an applicant who has successfully completed the permit application process for a processing or disposal facility.

*Storage*—the containment of solid waste on surfaces capable of preventing groundwater contamination in a means not constituting processing or disposal.

*Structure Contour Map*—a map displaying contour lines on a structural surface such as a stratum, formation boundary, or fault, in order to depict the subsurface configuration.

*Surface Application*—placement of solid waste onto a landfarm without incorporating it into the soil.

*Surface Impoundment*—a facility consisting of a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), designed to hold an accumulation of liquid waste and/or sludge, that is not an injection well, landfarm, landfill, or tank. Runoff and containment areas (ROCAs) of landfarms are considered to be *surface impoundments*.

*Surface-Recharge Zone*—an area where a formation or formations that compose an aquifer intersect the land surface and receive water from percolation, precipitation, or surface-water bodies.

*Tangible Net Worth*—the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents and royalties.

*Tank*—a stationary device designed to contain an accumulation of solid waste and constructed of nonearthen materials that provide structural support. The term *tank* does not include underground storage tanks as defined by the underground storage tank rules and regulations (LAC 33:Part.XI).

*Temporary Permit*—a written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, closure, or post-closure of a particular facility, or operation of an existing facility, used or intended to be used for processing or disposing of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

*Test Hole*—an exploratory borehole drilled to obtain geologic, hydrologic, or water quality data.

*Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods (SW-846)*—EPA's official compendium of analytical and sampling methods that has been evaluated and approved for use in complying with

these regulations. EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998)]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (Document Number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 1200 Pennsylvania Ave, NW, Washington, DC, 20460. Copies of the Third Edition and its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

*Thermophilic Stage*—a biological stage in the composting process characterized by active bacteria that favor a high temperature range of 45°C to 75°C. It occurs early in the composting process, before the mesophilic stage, and is associated with a high rate of decomposition.

*Topographic Map*—a map showing the elevation and relief of the land surface using contour lines or spot elevations.

*Topsoil*—the surface layer of soil, capable of promoting growth of vegetation.

*Toxicity Characteristic Leaching Procedure (TCLP)*—a method to determine if a waste exhibits hazardous characteristics, conducted in accordance with LAC 33:Part.V.

*Transfer Station (Non-Processing)*—see *Non-Processing Transfer Station.*

*Transfer Station (Processing)*—a Type I-A or II-A solid waste processing facility where solid waste is transferred from collection vehicles, processed, and placed in other vehicles for transportation (e.g., a facility that separates recyclables from industrial or putrescible waste streams).

*Transport*—to move solid waste off-site to a non-processing transfer station or a collection, processing, or disposal facility.

*Transporter*—any person who moves solid waste off-site to a non-processing transfer station or a collection, processing, or disposal facility, excluding individuals who transport their own residential waste to a collection facility, non-processing transfer station, or permitted processing facility and/or solid waste landfill.

*Trash*—nonputrescible refuse including, but not limited to, white goods, furniture, and wood and metal goods.

*Treatment Zone*—the depth in the soil of a landfarm into which solid waste has been incorporated and additional depths to which decomposition is occurring based on site-specific conditions.

*TSCA*—the Toxic Substances Control Act (15 U.S.C. §2601 et seq. (1976), a federal act that supplements other federal statutes including the Clean Air Act.

*Type (of Waste)*—a category of waste in a general classification defined for solid waste management purposes (e.g., commercial, industrial, residential).

*Type I Facility*—a facility used for disposing of industrial solid wastes (e.g., a landfill, surface impoundment, or landfarm). (If the facility is used for disposing of residential or commercial solid waste, it is also a Type II facility.)

*Type I-A Facility*—a facility used for processing industrial solid waste (e.g., a transfer station (processing), shredder, baler, etc.). (If the facility is used for processing residential or commercial solid waste, it is also a Type II-A facility.)

*Type II Facility*—a facility used for disposing of residential and/or commercial solid waste (e.g., a landfill, surface impoundment, or landfarm). (If the facility is used for disposing of industrial solid waste, it is also a Type I facility.)

*Type II-A Facility*—a facility used for processing residential, infectious, or commercial solid waste (e.g., a transfer station (processing), composting municipal solid waste facility, refuse-derived fuel facility, shredder, baler, autoclave, etc.). (If the facility is used for processing industrial solid waste, it is also a Type I-A facility.)

*Type III Facility*—a facility used for disposing or processing of construction/demolition debris or woodwaste, composting organic waste to produce a usable material, or separating recyclable wastes (e.g., a construction/demolition-debris or woodwaste landfill, separation facility, or composting facility).

*Unauthorized Discharge*—a continuous, intermittent, or one-time discharge, whether intentional, anticipated, or unanticipated, from any source, permitted or unpermitted, that is in contravention of any provision of the Act or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exemption of the administrative authority.

*Unauthorized Dump*—a solid waste disposal facility whose operation is not authorized by the administrative authority.

*Unit of a Facility*—designated area of a facility wherein solid waste is, has been, or will be processed, stored, or disposed of.

*Unstable Area*—a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. *Unstable*

*areas* can include poor foundation conditions, areas susceptible to mass movement, and karst terrains.

*Upgrade*—to bring an existing facility into compliance with applicable regulations.

*Uppermost Aquifer*—the aquifer nearest the natural ground surface, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary. The uppermost aquifer may or may not be the uppermost water-bearing permeable zone.

*Uppermost Water-Bearing Permeable Zone*—the permeable zone that occurs nearest the natural ground surface. This zone may or may not be the uppermost aquifer and may act as a potential contaminant pathway.

*Vector*—see *Disease Vector*.

*Water Table*—the potentiometric surface of the saturated zone in an unconfined aquifer or confining bed at which the pore pressure is equal to the atmospheric pressure.

*Wetlands*—those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. *Wetlands* generally include swamps, marshes, bogs, and similar areas.

*White Goods*—discarded domestic and commercial appliances, such as refrigerators, ranges, washers, and water heaters.

*Woodwaste*—yard trash and types of waste generated by land and right-of-way clearing operations, sawmills, plywood mills, and woodyards associated with the lumber and paper industry, such as wood residue, cutoffs, wood chips, sawdust, wood shavings, bark, wood refuse, wood-fired boiler ash, wood ash, and plywood or other bonded materials that contain only polyurethane, phenolic-based glues, or other glues that are approved specifically by the administrative authority. Uncontaminated, un-treated or un-painted lumber or wooden pallets are considered woodwaste under this definition.

*Working Face*—that portion of a landfill where waste is currently being added during the operating day.

*Yard Trash*—vegetative matter resulting from landscaping, maintenance, or land-clearing operations, including trees and shrubbery, leaves and limbs, stumps, grass clippings, and flowers.

*Zone of Incorporation*—the depth to which solid waste has been incorporated into the soil of a landfarm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:1023 (June 2008), LR 34:1399 (July 2008), LR 37:1563 (June 2011), LR 37:3233 (November 2011), LR 38:46 (January 2012).

### §117. Experimental Operations for New Technologies

A. This Section allows applicants to submit requests allowing for experimental operations for new technology (e.g., use of alternate daily cover) prior to submitting a permit application or modification. No experimental operations for new technologies shall be implemented without prior approval from the administrative authority.

B. Permission may be granted to facilitate experimental operations intended to develop new methods or technology providing strict conformity with these regulations is demonstrated in the request.

C. Experimental operations shall be considered only where significant health, safety, environmental hazards, or nuisances will not be created, and when a detailed proposal is submitted and accepted that sets forth the objectives, procedures, controls, monitoring, reporting, time frame, and other data regarding the experimental operations.

D. Restrictions. Initial experimental operations shall be limited to a maximum of two years. However, the department may renew the request for additional time periods upon a showing by the person that the need for a continuance is valid.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1026 (June 2007), amended LR 37:3234 (November 2011).

# Chapter 3. Scope and Mandatory Provisions of the Program

### §301. Exempted Waste

A. All *solid wastes*, as defined by the Act and these regulations, are subject to the provisions of these regulations, except as follows:

1. wastes regulated under other authority and not processed or disposed of in solid waste facilities permitted under these regulations, including but not limited to, the following wastes:

a. agricultural-crop residues, aquacultural residues, silvicultural residues, and other agricultural wastes stored, processed, or disposed of on the site where the crops are grown or that are stored, processed, or disposed in accordance with a best management practice plan that has been provided to the Office of Environmental Services and approved in writing by the Department of Agriculture, and within the jurisdiction of the Department of Agriculture;

b. mining overburden, spoils, tailings, and related solid wastes within the jurisdiction of the Department of Natural Resources, Office of Conservation;

c. produced-waste fluids and muds resulting from the exploration for or production of petroleum and geothermal energy, and all surface and storage waste facilities incidental to oil and gas exploration and production, within the jurisdiction of the Department of Natural Resources, Office of Conservation;

d. uncontaminated dredge or earthen excavation spoil;

e. solid wastes while they are stored at residences or commercial establishments and regulated by local ordinance, or within the jurisdiction of the Department of Health and Hospitals;

f. uncontaminated residues from beneficiation of earthen material;

g. uncontaminated storm water and uncontaminated noncontact cooling water;

h. infectious waste or other hospital or clinic wastes that are not processed or disposed of in solid waste processing or disposal facilities permitted under these regulations; and

i. sewage sludge (including domestic septage) that is generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 73. Sewage sludge and domestic septage not managed in accordance with LAC 33:IX.Chapter 73 shall be managed in accordance with these regulations; and

2. wastes excluded by the definition of *solid waste* in the Act and/or as otherwise specified in the Act, including:

a. hazardous wastes subject to regulation under R.S. 30:2171 et seq.;

b. solid or dissolved material in domestic sewage (such as domestic-oxidation ponds), except separated sludges;

c. solid or dissolved materials in irrigation-return flow;

d. discharges that are downstream from point sources subject to permit under R.S. 30:2074, except waste contained in solid waste facilities prior to the final discharge point, provided, however, that:

i. wastewaters in existing ditches that are downstream of a designated internal state or federal wastewater discharge point are exempt from the definition of *solid waste* if they require no further treatment to meet final state or federal wastewater discharge point permit limits or if they require only pH adjustment to meet final pH permit limits, or suspended solids settling specifically to meet final total suspended solids permit limits;

ii. wastewasters in existing ditches upstream of a designated final state or federal wastewater discharge point that require no further treatment to meet final state or federal permit limits or that only require pH adjustment to meet final pH permit limits, or solids settling specifically to meet total suspended solids permit limits, are exempt from the definition of *solid waste*;

iii. solids or sludges in ditches are exempt from the definition of *solid waste* until such time as such solids or sludges are removed from the ditches for disposal, provided however, that this exclusion from the definition of solid waste only applies to solids and sludges derived from wastewaters described in Clauses A.2.d.i and ii of this Section;

iv. the administrative authority reserves the right to withdraw the exemption for wastewaters in Clauses A.2.d.i and ii of this Section if the wastewaters contribute to groundwater contamination;

e. source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

f. compost produced by an individual for his own beneficial use, as provided in R.S. 30:2416(G);

g. uncontaminated scrap metal materials that are purchased for resale to be recycled or reused and are not destined for disposal; and

h. automotive fluff that results from the shredding of automobiles by a scrap metal recycling facility authorized under the laws of the state of Louisiana and from which metals have been recovered to the maximum extent practicable by the scrap metal recycling facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1027 (June 2007), LR 33:2140 (October 2007), LR 33:2364 (November 2007), LR 34:612 (April 2008).

## §303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. The following solid wastes, when processed or disposed of in an environmentally sound manner, are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. wastes resulting from land and right-of-way clearing (trees, stumps) and disposed of on the site where generated;

2. solid wastes in facilities that have been closed in a manner acceptable to the administrative authority prior to January 20, 1981 (This Paragraph is not intended to require permitting of any facilities that have been closed in a manner acceptable to the administrative authority and which remain closed.);

3. materials such as waste papers, plastics, metals, and glass that are presorted to be recycled or reused and not destined for disposal;

4. uncontaminated earthen materials such as limestone, clays, sands, clamshells, river silt, and uncontaminated residues from beneficiation of earthen materials;

5. brick, stone, reinforced and unreinforced concrete, and asphaltic roadbeds;

6. sludges resulting from the treatment of water at public or privately owned water-supply treatment plants;

7. petroleum-refining catalysts and other materials utilized as feedstocks that are managed at a facility in order to recover these wastes for further use;

8. agricultural wastes, including manures, that are removed from the site of generation by an individual for his own personal beneficial use on land owned or controlled by the individual. The amount of wastes covered by this exemption shall not exceed 10 tons per year (wet-weight) per individual per use location. To qualify for this exemption records documenting the amount of wastes used for beneficial use on land owned or controlled by the generator shall be maintained. These records shall be kept for a minimum period of two years;

9. solid wastes that are treated or disposed of in a hazardous waste treatment or disposal facility that is regulated under LAC 33:Part.V;

10. woodwastes that are beneficially-used in accordance with a Best Management Practice Plan approved in writing by the Department of Agriculture and submitted to the Office of Environmental Services, provided that the generator notifies the Office of Environmental Services of such activity at each site in accordance with LAC 33:VII.401.A. Woodwastes not being properly managed in accordance with the Best Management Practice Plan approved by the Department of Agriculture do not meet this exemption;

11. solid wastes reused in a manner protective of human health and the environment, as demonstrated by a soil reuse plan or beneficial use plan prepared in accordance with LAC 33:VII.Chapter 11 and approved by the administrative authority;

12. other wastes deemed acceptable by the administrative authority based on possible environmental impact; and

13. spent blasting sand generated from the preparation of unpainted surfaces.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1027 (June 2007), LR 33:2140 (October 2007), LR 37:3235 (November 2011).

## §305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

A. The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. incinerators that receive only on-site-generated commercial solid waste and that have a design rate of no more than 250 pounds per hour;

2. shredders, autoclaves, balers, and compactors that receive no waste volume from off-site sources;

3. facilities that process on-site-generated, nonhazardous, petroleum-contaminated media and debris from underground storage tank corrective action or other remedial activities, including, but not limited to, remedial action resulting from an order issued by the administrative authority in accordance with R.S. 30:2275(E) that involves the processing of solid waste by the facility, provided such processing is completed in less than 12 months and is in accordance with a corrective action plan authorized by the administrative authority;

4. construction/demolition-debris disposal facilities that receive only on-site-generated construction/demolition-debris, provided that the following requirements are met:

a. the facility shall notify the Office of Environmental Services of such activity in accordance with LAC 33:VII.401.A; and

b. the facility shall submit to the Office of Management and Finance a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.721.B.1;

c. the facility owner shall update the parish mortgage and conveyance records by entering the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with the knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services with a true copy of the document filed and certified by the parish clerk of court;

5. solid waste injection wells that are under the jurisdiction of the Department of Natural Resources, provided, however, that any storage, processing, or disposal (not including injection) incidental to such injection wells is subject to these regulations;

6. industrial facilities that process solid waste by non-destructive and non-thermal means on the site where the waste is generated (i.e., none of the waste is from off-site sources);

7. secondary containment systems (e.g., sumps or dikes) that are designed and operated to contain non-routine spill events (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include secondary containment systems for solid waste disposal units;

8. woodwaste facilities at which only woodwaste is disposed of on property owned by the generator of the woodwaste, provided that the following requirements are met:

a. the facility shall notify the Office of Environmental Services of such activity in accordance with LAC 33:VII.401.A;

b. the facility shall comply with applicable Louisiana water quality regulations (LAC 33:Part IX); and

c. the facility shall comply with the perimeter barrier, security, and buffer zone requirements in LAC 33:VII.719.B;

9. facilities at which only woodwastes resulting from utility right-of-way clearing are received, provided the following conditions are met:

a. the facility property shall be controlled by the utility company that generates the woodwaste;

b. the facility shall comply with the natural or manmade perimeter barrier and security requirements in LAC 33:VII.719.B;

c. the facility shall not receive solid waste from any source other than the utility company (or its authorized contractors) which generates the waste;

d. the facility shall notify the Office of Environmental Services of its activities in accordance with LAC 33:VII.401.A;

e. the facility shall comply with applicable Louisiana water quality regulations (LAC 33:Part IX);

10. ditches that receive nonroutine spillage (i.e., do not routinely receive solid waste except for de minimus spillage) from manufacturing or product storage areas within an industrial establishment. This exemption does not include ditches for solid waste disposal units such as landfills, landfarms, or surface impoundments;

11. recycling facilities, as described in LAC 33:VII.303.A.3, that receive only source-separated recyclables;

12. hospitals and other health care facilities that store or treat regulated infectious waste generated on-site or that accept waste from off-site wholly- or partly-owned subsidiaries; and

13. transportation vehicles and municipal or parish collection containers that collect and compact solid waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2515, 2609 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1028 (June 2007), LR 33:2140 (October 2007), LR 37:3235 (November 2011).

## §307. Exemptions

A. Any person subject to these regulations who generates, collects, stores, transports, processes, or disposes of solid waste may petition the administrative authority for exemption from these regulations or any portion thereof.

1. The administrative authority may provide exemptions from these regulations or any portion thereof when petitions for such are deemed appropriate after consideration of the factors enumerated in Subparagraphs B.2.a and b of this Section as well as any other pertinent factors.

2. The administrative authority shall make a decision whether or not to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority. In no case shall the time period be greater than one year.

B. Each request for an exemption shall:

1. identify the specific provisions of these regulations from which a specific exemption is sought;

2. provide sufficient justification for the type of exemption sought, that includes, but may not be limited to, the following demonstrations:

a. that compliance with the identified provisions would tend to impose an unreasonable economic, technologic, safety, or other burden on the person or the public as determined by the department; and

b. that the proposed activity will have no significant adverse impact on the public health, safety, welfare, and the environment, and that it will be consistent with the provisions of the Act;

3. include proof of publication of the notice as required in Paragraph C.1 of this Section, except for emergency exemptions.

C. Public Notification of Exemption Requests

1. Persons requesting an exemption shall publish a notice of intent to submit a request for an exemption, except as provided in Paragraph C.2 of this Section. This notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the legal-

notices section of the official journal of the state shall be the only public notice required.

2. Persons granted emergency exemptions by the administrative authority shall publish a notice to that effect in the legal-notices section of a newspaper of general circulation in the area and parish where the facility requesting the exemption is located. The notice shall be published one time as a single classified advertisement in the legal-notices section of a newspaper of general circulation in the area and parish where the facility is located, and one time as a classified advertisement in the legal-notices section of the official journal of the state. The notice shall describe the nature of the emergency exemption and the period of time for which the exemption was granted. Proof of publication of the notice shall be forwarded to the Office of Environmental Services within 60 days after the granting of an emergency exemption.

D. Innovative or Alternate Technology Exemption. Persons requesting an exemption based on innovative or alternate technology shall follow the procedure specified in Subsections A, B, and C, except for Subparagraph B.2.a, of this Section. Requests for exemptions based on innovative technology may be granted by the administrative authority based on the ability of the applicant to make the following demonstrations:

1. the request is based on innovative or alternative technology;

2. the innovative or alternative technology will satisfy all of the applicable standards in LAC 33:Part.VII other than those for which the exemption is sought; and

3. the innovative or alternative technology will produce performance or will provide protection that is equivalent or superior to that required by all the standards for which the exemption is sought.

E. No exemptions may be granted for Type II landfills that would allow noncompliance with federal regulations, specifically 40 CFR 257 and 258, as amended on October 9, 1991.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1029 (June 2007), LR 33:2141 (October 2007).

## §311. Submittal of Information by Persons Other than Permit Holder or Applicant

A. Documentation must be provided to the Office of Environmental Services by the permit holder or applicant authorizing other persons to submit information on their behalf.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1030 (June 2007), LR 33:2141 (October 2007).

## §315. Mandatory Provisions

A. Generating, Collecting, Transporting, Storing, Processing, and Disposing of Solid Waste. Solid waste shall be generated, collected, transported, stored, processed, and disposed of only in accordance with these regulations.

B. Storage of Wastes. No solid waste shall be stored or allowed to be stored in a manner that may cause a nuisance or health hazard or detriment to the environment as determined by the administrative authority. Unless authorized or approved by the administrative authority, no solid waste shall be stored or allowed to be stored at an off-site location unless such off-site location is an authorized transfer station or collection, processing, or disposal facility. After November 20, 2011, solid wastes may not be stored on-site for greater than one year, without approval from the Office of Environmental Compliance. The facility shall maintain records indicating the time frame that waste has been stored.

C. Processing and Disposal of Solid Waste. Except as otherwise provided in these regulations, all solid waste shall be processed or disposed of at a permitted solid waste facility.

D. Abandonment of Solid Waste. Abandonment of solid waste shall be considered an act of disposal.

E. Access to Facilities. The administrative authority or his representative shall have access to the premises of all facilities used for the management of solid waste for all purposes authorized under R.S. 30:2001 et seq., particularly R.S. 30:2012. These inspections may be conducted during normal operating hours; however, the department reserves the right to conduct inspections before and after operating hours. Upon request of the operator or permit holder, the administrative authority or his representative shall discuss the preliminary findings of any such investigation before leaving the premises.

F. Reporting of Unauthorized Discharge. Any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land of the state in contravention of the Act, these regulations, or the terms and conditions of a permit issued thereunder, or any accident, fire, explosion, or other emergency that results in such unauthorized solid waste discharge, shall be reported by any person causing, allowing, or suffering said discharge or by any person with knowledge of the discharge to the Office of Environmental Compliance in accordance with LAC 33:I.Chapter 39.

G. Cleanup of Unauthorized Discharge. The cleanup, isolation, removal, or otherwise rendering safe of solid waste processed or disposed of in a manner not authorized by these regulations, or at a facility not permitted to receive such

wastes, shall be conducted in accordance with LAC 33:I.Chapter 13 (RECAP), these regulations, or the terms and conditions of any order issued by the administrative authority. Such orders shall not preclude other enforcement action under R.S. 30:2025.

H. Notice of Fire or Damage to Structures in a Solid Waste Facility. Notification shall be made in accordance with LAC 33:I.3915 in the case of an *emergency condition* as defined in LAC 33:I.3905, or in accordance with LAC 33:I.3923 in all other cases, when damage to or degradation of any structure of a solid waste facility occurs that would impair the ability of the facility to meet the conditions of its permit, or when any fire occurs in the waste management area at a solid waste facility.

I. Construction with Intent to Operate a Facility. The owner/operator shall provide advance written notice, at least 30 days prior to construction, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a transfer station (processing or non-processing) or other type of facility for the offloading and/or transloading of processed solid waste and sewage sludge destined for disposal.

J. Hazardous or Nuclear Wastes in Solid Waste Facilities. No hazardous waste or nuclear material regulated under the Louisiana hazardous waste rules and regulations or Louisiana radiation regulations shall be processed or disposed of at a solid waste facility except in conformance with those regulations. Collectors, transporters, processors, and disposers of solid waste shall determine, according to approved methods, that the waste is not hazardous before collecting, transporting, processing, or disposing of it.

K. Compliance with Other Regulations. All facilities may be subject to applicable federal and state laws and regulations including, but not limited to, Section 402 (NPDES) and Section 404 (Dredge and Fill) of the Clean Water Act; the Coastal Zone Management Act and Federal Aviation Administration regulations; the National Historic Preservation Act of 1966, as amended; the Endangered Species Act; the Wild and Scenic Rivers Act; the Fish and Wildlife Coordination Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection Research and Sanctuary Act; the Resource Recovery and Conservation Act; and the Federal Insecticide, Fungicide, and Rodenticide Act.

L. Contamination of the Waters of the State. No person shall cause, allow, or permit solid waste to be disposed of in such a manner that it enters the waters of the state. This does not apply to discharges into waters of the state in accordance with state or federal wastewater-discharge permits.

M. Prohibition of Open Burning of Solid Waste. Open burning of solid waste is prohibited, except in accordance with R.S. 30:2001 et seq. and LAC 33:III.1109.

N. Spent Bauxite Waste and Byproduct Gypsum and Related Wastes

1. The administrative authority may give special consideration to landfills that receive only byproduct gypsum and related wastes (resulting from the production of phosphoric acid, phosphate fertilizers, and hydrofluoric acid) that is generated on-site, with regard to standards for receipt of liquid waste, standing water, specific design and operation of liners and leachate collection and removal systems, daily cover, and final cover, which may include waiver or modification of these standards.

2. The administrative authority may give special consideration to surface impoundments that receive only spent bauxite waste and related wastes (resulting from production of alumina) that is generated on-site, with regard to standards for liners and final cover, which may include waiver or modification of these standards.

O. Generators shall not offer solid waste to transporters, processing facilities, or disposal facilities that have not received authorization and/or the required permits necessary to receive and/or manage the generator's solid waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007), LR 34:1400 (July 2008), LR 36:1240 (June 2010), LR 37:3235 (November 2011) repromulgated LR 37:3508 (December 2011).

# Chapter 4. Administration, Classifications, and Inspection Procedures for Solid Waste Management Systems

## §401. Notification

A. Persons who generate industrial solid waste and/or persons who transport, process, or dispose of solid waste shall, within 30 days after they become subject to these regulations, notify the Office of Environmental Services in writing of such activity. A form to be used for notification shall be obtained from the Office of Environmental Services or through the department's website.

B. Persons who generate industrial solid waste and persons who transport, process, or dispose of solid waste who have previously notified the department of such activity are not required to renotify, unless changes are warranted.

C. Owners or operators of non-processing transfer stations and collection facilities are required to notify the Office of Environmental Services prior to operation of these types of facilities. Existing facilities that have previously notified are not required to renotify.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1031 (June 2007), LR 33:2141 (October 2007).

## §403. Existing Facilities Classification

A. Classification

1. Existing facilities that have not been previously regulated, classified, or issued a standard permit shall be classified by the administrative authority to the classification categories of "closure" or "upgrade."

2. Within 120 days after the review and acknowledgment of the notification by the administrative authority, a representative of the department shall perform an on-site investigation of the facility to determine its classification. At the time of the classification inspection, the processor and/or disposer shall provide the representative with a map clearly depicting the location and size of each facility (and units thereof) to be classified and a schematic of the waste entering each unit of a facility to be classified.

3. Within 30 days after the classification inspection, any person who processes or disposes of solid waste shall file with the Office of Environmental Services a notice of his intent to upgrade or close a facility.

B. Existing Facilities Not Operating under a Standard Permit. All facilities without a standard permit, whether operating or inactive, shall be upgraded or closed in accordance with LAC 33:VII.Subpart 1 unless they have previously been satisfactorily closed in accordance with LAC 33:VII.Subpart 1.

C. Permits for Existing Facilities Operating Without a Standard Permit. All existing solid waste facilities classified for upgrading shall apply for a standard permit according to these regulations.

D. Existing facilities that have not previously been classified or that are not operating under a standard permit shall be classified for upgrade or closure by the following criteria and procedure.

1. Classification criteria are based on compliance with standards detailed in LAC 33:VII.Chapters 5, 7, and 8, with emphasis on the following:

a. potential for pollution of surface water;

b. potential for pollution of groundwater;

c. potential for pollution of air;

d. location in flood plains or in wetlands;

e. potential for danger to health due to disease vectors, use of waste-filled lands for food crops, and similar health-related practices;

f. safety considerations, including danger from explosive gases, from fires, and from birds attracted to the site that might obstruct the glide path of aircraft; and

g. threat to endangered species.

2. The classification procedure comprises identifying, evaluating, and preliminary classification of facilities.

a. An ongoing effort shall be made to identify all solid waste facilities.

b. The facilities shall be evaluated on the basis of the criteria listed in this Subsection and based on the needs and plans of the facility.

E. Issuance of Temporary Permits

1. The administrative authority may issue a temporary permit for upgrading to persons who process or dispose of solid waste. The temporary permit shall require the submission of a permit application. The temporary permit will allow the facility to continue operations in accordance with an approved interim operational plan pending the standard permit application process.

2. The administrative authority may issue a temporary permit for closure to persons who process or dispose of solid waste. The temporary permit shall require the submission of a closure plan permit application and implementation schedule. The temporary permit may allow the facility to continue operations in accordance with an approved interim operational plan pending the closure process.

3. Temporary permits are subject to annual permit maintenance fees as provided in LAC 33:VII.1505.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1031 (June 2007), LR 33:2141 (October 2007).

## §405. Categorization of Facilities

A. All existing and proposed facilities shall be categorized as defined in LAC 33:VII.115 and as one or more of the following:

1. *Type I*—industrial disposal facilities (e.g., landfills, surface impoundments, or landfarms);

2. *Type I-A*—industrial processing facilities (e.g., balers, shredders, transfer stations (processing), etc.);

3. *Type II*—non-industrial disposal facilities (e.g., landfills, surface impoundments, or landfarms);

4. *Type II-A*—non-industrial processing facilities (e.g., composting municipal solid waste facilities, balers, shredders, transfer stations (processing), refuse-derived fuel facilities, autoclaves, etc.); or

5. *Type III*—construction/demolition-debris and woodwaste landfills, separation facilities, composting facilities, or other.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1032 (June 2007).

### §407. Inspection Types and Procedures

A. Classification Inspection. A classification inspection is required for all facilities not previously classified, and each facility's initial classification is based on this inspection. It is performed after the department receives notification of operations (LAC 33:VII.401.A).

B. Compliance Inspections. The department shall inspect each facility and each facility's records periodically to determine the facility's compliance with the terms of standard or temporary permits and these regulations.

C. Initial Start-Up Inspection

1. Upon issuance of a permit or modification requiring upgrades to an existing unit, or construction of a newly permitted unit, a start up inspection may be made after the permit holder submits a construction certification to the Office of Environmental Services, signed by a professional engineer licensed in the state of Louisiana, certifying that the upgrade to an existing unit, or construction of a newly permitted unit or a discrete portion thereof as identified in a construction schedule included in the permit, is constructed and/or upgraded in accordance with the permit or modification, and as specified in the permit or modification application.

2. Upon renewal of an existing permit where no physical changes are required, no construction certification shall be required to be submitted, and no start-up inspection shall be initiated. The permit holder may continue use of the unit(s) upon the effective date of the renewal permit.

3. If the administrative authority determines a start-up inspection is required pursuant to Paragraph 1 of this Subsection, the start-up inspection shall be initiated within 15 working days of receipt of certification by the Office of Environmental Services unless a longer time period is set by mutual agreement.

4. Within 15 working days after a new, existing, or modified facility has undergone an initial start-up inspection, or within 30 days of receipt of the construction certification, the administrative authority shall either issue an approval of the construction and/or upgrade or a notice of deficiency to the permittee, unless a longer time period is set by mutual agreement.

D. Construction Inspections. At least 10 days prior to commencing construction of a liner, leak-detection system, leachate-collection system, or monitoring well at a Type I or Type II facility, the permit holder shall notify the Office of Environmental Services, in writing, of the date on which construction will begin, in order to allow a representative of the department the opportunity to witness the construction. Written notification under this Subsection is not required if the construction notification is included in a report required by LAC 33:VII.527.

E. Closure Inspections. Closure inspections will be conducted within 30 days after the Office of Environmental Services has received written notice from the permit holder that closure requirements have been met in accordance with the approved closure permit or closure plan for those facilities that began closure activities in accordance with an approved closure plan prior to November 20, 2011, and the permit holder has submitted a request for a closure inspection. Closure inspections shall be conducted before backfilling of a facility takes place. The administrative authority reserves the right to determine if a facility has been closed properly.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1032 (June 2007), LR 33:2142 (October 2007), LR 37:3235 (November 2011), repromulgated LR 37:3508 (December 2011).

# Chapter 5. Solid Waste Management System

## Subchapter A. General Standards for Nonpermitted Facilities

### §501. Standards Governing Industrial Solid Waste Generators

A. Annual Reports

1. Generators of industrial solid waste shall submit annual reports to the Office of Management and Finance listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off-site. This requirement does not apply to those generators who are also permit holders required to submit annual certifications of compliance in accordance with LAC 33:VII.525.

2. The generator's annual report shall name the transporter(s) who removed the industrial solid waste from the generator's site and the permitted solid waste processing or disposal facility or facilities that processed or disposed of the waste both in and out of state. The form to be used shall be obtained from the department or through the department’s website.

3. The reporting period shall be from July 1 through June 30.

4. The report shall be submitted to the Office of Management and Finance by August 1 of each reporting year.

5. Generators of industrial solid waste shall maintain, for two years, all records concerning the types and quantities of industrial solid waste disposed of off-site.

B. Generator Notification and Waste Testing

1. Prior to the initial transport of an industrial solid waste off-site, generators of industrial solid waste shall:

a. submit to the Office of Environmental Services a generator notification form, which is available on the department's website or by contacting the Office of Environmental Services, that includes analysis, analytical data, and/or process knowledge that confirms that the waste is not a characteristic or listed hazardous waste as defined in LAC 33:V or by federal regulations; and

b. obtain an industrial waste code number from the disposal facility.

2. Subsequent movements of the same industrial waste off-site shall not require new waste testing or a new industrial waste code number, unless the process that generates the waste or the characteristics of the waste change. However, the waste characterization data and the waste code required in Paragraph B.1 of this Section shall be maintained by the generator.

C. Except as otherwise provided in these regulations, all solid waste shall be processed or disposed of at a permitted solid waste facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:1033 (June 2007), LR 33:2142 (October 2007), LR 37:3236 (November 2011).

## §503. Standards Governing Solid Waste Accumulation and Storage

A. Solid Waste Accumulation

1. No solid waste shall be stored or allowed to be stored long enough to cause a nuisance, health hazard, or detriment to the environment as determined by the administrative authority, and after November 20, 2011, no solid waste shall be stored on-site for greater than one year without approval from the Office of Environmental Compliance. The facility shall maintain records indicating the time frame during which waste has been stored.

2. Containers used for solid waste shall:

a. prevent access by rodents and insects;

b. minimize the escape of odors to the maximum extent possible; and

c. keep out water and prevent leakage.

3. On-site processing or disposal, other than the exclusions provided for in LAC 33:VII.301, 303, or 305, is not allowed on the sites of commercial or industrial generators, unless a permit is obtained.

B. Solid Waste Stored in Tanks

1. Storage tanks shall be designed, constructed, and operated to prevent release of their solid waste contents into the surrounding environment.

2. A storage vessel that is partially buried underground shall meet the definition of *tank* provided in LAC 33:VII.115 in order to be considered a tank; otherwise, it will be considered a surface impoundment.

C. Solid Waste Generated by Offshore or Inland Waterway Facilities

1. The generation point for solid waste transported from offshore and inland waterway facilities shall be the place of delivery of the solid waste to a land-based facility. This facility shall not be considered off-site.

2. Storage of the solid waste shall meet the standards of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007), LR 34:613 (April 2008), LR 37:3236 (November 2011) repromulgated LR 37:3509 (December 2011).

## §505. Standards Governing Collectors and Off-Site Transporters of Solid Waste

A. Vehicle Requirements

1. The types and sizes of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local ordinances governing weight and size for the streets that must be traveled for solid waste pickup.

2. Cover

a. The bodies of vehicles used to transport trees, tree limbs, construction materials, or metals shall contain such waste without allowing materials to fall or blow off the vehicle.

b. The bodies of vehicles used to collect or transport all other solid waste shall be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching waste, inhibits access by rodents and insects, prevents waste from falling or blowing from the vehicle, minimizes escape of odors, and does not create a nuisance.

c. The bodies of vehicles used for the transportation of ash shall be leak-resistant and covered so as to prevent emissions.

3. The bodies of all vehicles used to transport solid waste that produces leachate shall be equipped with a collection and containment system to ensure that leachate

from the waste is not discharged in violation of these regulations.

4. The interior and exterior of the body of a vehicle used to transport putrescible solid waste shall be washed down as often as needed to ensure that odors generated by putrescible matter are minimized.

B. Vehicle Washdown Area

1. The vehicle washdown area shall be designed, constructed, and operated to prevent leakage which may lead to groundwater contamination or uncontrolled contaminated surface runoff.

2. Water collected shall be discharged and the containment system thoroughly cleaned as often as is needed to minimize odors. The leachate and the cleanout water shall be discharged in accordance with all applicable state and federal regulations.

C. Standards Governing Waste Transportation by Other Modes

1. Barge and Ship Transport

a. Barge and ship transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.507, as applicable.

2. Pipelines

a. Transfer points, pumping stations, and other facilities with a potential for spillage shall be located above grade, or in watertight compartments, and shall be in containment areas constructed to hold the maximum potential spill.

b. Containment areas shall consist of a base and dikes constructed of concrete, compacted clay, or other impervious materials. All joints must be sealed.

3. Rail

a. Rail car transport shall be governed by Paragraphs A.2, 3, and 4 and Paragraphs B.1 and 2 of this Section.

b. Loading and unloading facilities shall comply with LAC 33:VII.507, as applicable.

4. Other. Collectors and off-site transporters utilizing facilities not covered by Subsections A and C of this Section shall apply to the administrative authority for regulations governing the proposed facility.

D. Transportation to Processing and Disposal Facilities. Solid waste shall be transported, for processing or disposal, only to facilities permitted to receive such waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007).

## §507. Standards Governing Collection Facilities for Solid Waste

A. Owners/operators of collection facilities shall comply with existing local zoning and comprehensive land-use regulations and ordinances. The owner/operator shall be responsible for the management of the collection facility, in accordance with this Section.

B. Containers shall provide complete containment of waste, thereby preventing litter, discharges, odor, and other pollution of adjoining areas. Collection facilities shall meet the standards found in LAC 33:VII.503.A. They shall also occupy sufficient land so that vehicles using the facility will not adversely affect traffic or otherwise constitute a hazard or endanger public safety.

C. All waste accumulated or stored at the facility shall remain in containers that meet the following requirements.

1. Containers shall provide sufficient capacity to contain waste and prevent litter.

2. Containers shall be designed, constructed, and operated to keep out water and prevent leakage.

3. Containers shall be constructed and maintained to minimize odors and access by rodents and insects.

4. Containers shall be emptied before accumulation becomes a nuisance, a health hazard, or a detriment to the environment as determined by the administrative authority.

D. Inspections of collection facilities shall be made at least weekly by the owner/operator looking for cleanliness of the site, overfill of containers, closed lids, leaking containers, and deterioration of containers. Inspections shall be documented, and the records shall be maintained for a period of two years and available for inspection within 24 hours of request.

E. No processing or disposal shall occur at a collection facility.

F. Removal of all remaining wastes to a permitted facility shall occur at closure of a collection facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2609 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007), LR 37:3236 (November 2011).

## §508. Standards Governing Non-Processing Transfer Stations for Solid Waste

A. Owners/operators of non-processing transfer stations shall:

1. provide advanced written notice, at least 30 days prior to construction, to the parish governing authority whose jurisdiction may be affected, of the intent to operate a

non-processing transfer station or other type of facility for the offloading and/or transloading of solid waste destined for disposal;

2. notify the Office of Environmental Services in accordance with LAC 33:VII.401;

3. comply with existing local zoning and comprehensive land-use regulations and ordinances; and

4. maintain site access roads or waterways in a manner that shall meet the demands of the facility and is designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

B. New facilities in which construction has commenced after June 20, 2007, shall comply with a buffer zone requirement of not less than 200 feet between the facility and the property line. Facilities transferring only nonputrescible waste shall comply with a buffer zone requirement of not less than 50 feet between the facility and the property line. A reduction in the buffer zone requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 200 feet (or 50 feet, if applicable) from the facility. The facility's owner or operator shall enter a copy of the notarized affidavit(s) in the mortgage and conveyance records of the parish or parishes in which the landowners' properties are located. The affidavit(s) shall be maintained with the records of the facility. No storage of solid waste shall occur within a facility's buffer zone.

C. No processing or disposal shall occur at a non-processing transfer station except for facilities separating non-putrescible recyclable materials from commercial solid waste.

1. Recovered commercial recyclable materials shall not contain putrescible waste and shall be relatively dry. Types of recyclable materials that are acceptable include:

a. recyclable paper;

b. recyclable wood;

c. recyclable glass;

d. mixed rigid plastics (e.g. 5-gallon buckets, crates, and pallets);

e. ferrous and non-ferrous metal materials; and

f. other acceptable commercial recyclable materials approved by the administrative authority.

2. Identification of loads containing acceptable commercial recyclable materials shall occur by:

a. driver identification; and

b. visual inspection of open top loads before they reach the tipping floor.

3. Recyclable materials shall be stored in enclosed containers such as trailers, compaction vehicles and enclosed buildings. Staging of the collected recyclable materials shall not exceed 30 days.

4. Non-processing transfer stations that separate non-putrescible commercial recyclable materials shall submit an annual recycling report to the Office of Environmental Services by August 1 of each year.

D. Facilities shall also comply with LAC 33:VII.503 and 505.

E. Owners/operators shall have the personnel necessary to achieve the operational requirements of the facility.

F. Facilities shall have control measures that prevent unauthorized ingress or egress, except by willful entry. During operating hours, each facility entry point shall be continuously monitored, manned, or locked. During non-operating hours, each facility entry point shall be locked.

G. Each tipping area shall be constructed and operated to prevent litter from leaving the tipping area. This area shall be constructed of sufficiently low permeable material (i.e., concrete or asphalt) to prevent soil and groundwater contamination.

H. Facilities shall be inspected by the owner/operator at the end of each operating day, and litter or waste shall be cleaned up and placed into the last transportation vehicle. These inspections shall be documented, and the inspection records shall be retained in accordance with Subsection J of this Section.

I. Odors shall be controlled by the best means practicable. The non-processing transfer stations shall be cleaned daily by an appropriate method to minimize odors and nuisance conditions.

J. All facility records shall be maintained and available for inspection within 24 hours of request. These records shall be maintained for the life of the facility and shall be retained for at least three years after closure.

K. The owner/operator of a non-processing transfer station may construct a drop-off area at the non-processing transfer station site such that certain activities can be conducted. No industrial waste shall be accepted, and materials shall be managed in accordance with LAC 33:VII.503, 507, and Subsections F, G, I, K, and L of this Section. These areas are intended for the use of commercial facilities and residential solid waste. Collection and storage of the following wastes are allowed, provided it does not become a nuisance, a health hazard, or a detriment to the environment as determined by the administrative authority:

1. white goods;

2. presorted yard trash; or

3. household recyclable materials.

L. Discharges from the facility shall be controlled and shall conform to all applicable state and federal laws.

M. All waste shall be removed to a permitted facility at closure. Notification of closure shall be submitted to the Office of Environmental Services.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007), amended LR 33:2142 (October 2007), LR 34:613 (April 2008), LR 35:925 (May 2009), LR 38:46 (January 2012).

# Subchapter B. Permit Administration

## §509. Permit System

A. Scope

1. A permit shall be secured by any person who processes and/or disposes of solid waste, with the exception of those wastes or processing and disposal facilities described in LAC 33:VII.301, 303, and 305. Facilities (existing and proposed) subject to the permitting requirements detailed in these regulations are defined in LAC 33:VII.115 and categorized in LAC 33:VII.405.A.

2. Generators that are not processors or disposers of solid waste are not required to secure a permit. Generators of industrial solid waste shall notify the Office of Environmental Services in accordance with LAC 33:VII.501.B. Generators of industrial solid waste are subject to the applicable standards provided in LAC 33:VII.501.

3. Transporters that are not processors or disposers of solid waste are not required to secure a permit. Transporters of solid waste shall notify the Office of Environmental Services in accordance with LAC 33:VII.401.A and B. Transporters of solid waste are subject to the applicable standards provided in LAC 33:VII.505.

4. Collection facilities and non-processing transfer stations at which no solid waste is processed or disposed of are not required to secure a permit. Non-processing transfer stations and collection facilities are subject to the standards found in LAC 33:VII.503, 507, and 508 and shall notify the Office of Environmental Services in accordance with LAC 33:VII.401.A and B.

5. No new permitted solid waste facilities shall be constructed or operated without approval issued by the administrative authority in accordance with these regulations.

B. Types of Permits

1. Temporary Permit

a. A temporary permit allows continued operation of an existing facility that becomes subject to regulations in accordance with an interim operational plan, but does not allow the expansion or modification of the facility without prior approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations:

i. to allow operations to continue at an existing facility while a standard permit application is being processed;

ii. to allow operations to continue at an existing facility while a closure plan or closure permit application is being processed or while a facility is being closed in accordance with an approved closure plan; or

iii. to allow an applicant for a permit for a proposed facility to begin construction on a limited basis while an application for a proposed facility is being processed for good cause shown.

b. Temporary permits that may have been issued in the form of administrative orders, compliance orders to upgrade, orders to upgrade, compliance orders to close, orders to close, and settlement agreements prior to February 20, 1993, may remain in effect until otherwise determined by the administrative authority.

c. Temporary permit holders who do not have financial assurance meeting the requirements of LAC 33:VII.Chapter 13 shall submit financial assurance meeting the requirements of LAC 33:VII.Chapter 13 within 120 days of November 20, 2011.

2. Standard Permit. Standard permits may be issued by the administrative authority to applicants for solid waste processing and/or disposal facilities that have successfully completed the standard permit application process for a site specific permit.

3. General Permit. General permits may be issued to facilities with operations that are similar in nature and shall provide conditions that each facility that is authorized to operate under the general permit shall follow. Issuance of a general permit shall follow the procedures of a standard permit regarding draft decisions, public notice, and final decisions.

4. Regulatory Permit. Regulatory permits may be issued by the administrative authority when it is determined to be appropriate considering the type of operations or facilities that would be covered. Regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019.

5. Closure Permit. Closure permits may be issued to allow closure activities to occur in accordance with an approved closure plan.

6. All permits, regardless of type, issued on or after February 20, 1993, shall correspond to the facility categories set forth in LAC 33:VII.405.A (*Type I*, *Type I-A*, *Type II*, *Type II-A*, and *Type III*).

C. Existing Facilities Not Previously Classified or Not Presently Operating Under a Standard Permit

1. Only those existing facilities that the administrative authority classifies for upgrading may apply for a standard permit. The person notifying the Office of Environmental Services shall be issued a temporary permit and may continue operations in accordance with an interim

operational plan, pending a decision on the standard permit application.

2. A facility classified for closure shall be issued a temporary permit. That permit may allow operations to continue in accordance with an interim operational plan until closure activities are accomplished and may require that closure and/or post-closure activities be conducted in accordance with an approved closure plan or permit.

D. Duration of Permit

1. Temporary permits are issued for a period not to exceed three years.

2. Standard, closure, and general permits issued to facilities other than landfills are issued for a period not to exceed 10 years, and may be issued for a period of less than 10 years.

a. Processing and/or disposal facilities with an effective standard permit shall submit to the Office of Environmental Services a new permit application, following the application process in LAC 33:VII.513 and 519, at least 365 calendar days before the expiration date of the standard permit, unless written permission for later filing is granted by the administrative authority. If the renewal application is submitted on or before the deadline above, and the administrative authority does not issue a final decision on the renewal application on or before the expiration date of the standard permit, the standard permit shall remain in effect until the administrative authority issues a final decision.

b. For permits with expiration dates greater than 10 years, upon expiration, the department may, in accordance with rules and regulations, extend or reissue a permit for another time period of up to 10 years, or up to 20 years for landfill facilities.

3. Standard permits for landfills may be issued for a time period not to exceed 20 years. The administrative authority may issue a permit for a landfill for a lesser time period when the administrative authority determines a lesser time period is warranted based on factors such as the applicant's compliance history, other non-compliance issues, or capacity.

E. Public Hearings

1. Public hearings may be held concerning standard permits for facilities at the discretion of the administrative authority.

2. Public hearings may be held concerning major modifications of standard permits at the discretion of the administrative authority.

3. Public hearings shall not be held concerning mandatory modifications, which are considered an enhancement of a standard permitted facility.

4. Public hearings shall be held for all facilities when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary. Public hearings shall be conducted in accordance with the Environmental Quality Act for fact-finding hearings or other hearing procedures developed by the administrative authority and the Administrative Procedure Act (R.S. 49:950 et seq.).

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the draft decision in a newspaper notice (LAC 33:VII.513. G.3), request that the administrative authority consider whether a public hearing is necessary. If the administrative authority determines that the requests warrant it, a public hearing will be scheduled. If the administrative authority determines that the requests do not raise genuine and pertinent issues, the Office of Environmental Services shall send the person(s) requesting the hearing written notification of the determination. The request for a hearing shall be in writing and shall contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, notices shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in a major local newspaper of general circulation in the area where the facility is located. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state and a major local newspaper of general circulation in the area where the facility is located. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. Those persons on the Office of Environmental Services mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published at least 20 days before a public hearing in the departmental bulletin, if available, or on the department's internet site in the public notices section.

7. Review of Comments Following a Public Hearing. Comments received by the Office of Environmental Services within 30 days after the date of a public hearing shall be reviewed by the Office of Environmental Services.

F. Other Requirements

1. The applicant may be required to obtain additional permits from other local state and federal agencies. Typical permits that may be needed include, but are not limited to, the following.

a. NPDES/LPDES (Section 402 of the Clean Water Act);

b. Louisiana Water Discharge Permit;

c. Louisiana Coastal Use Permit (issued by the Department of Natural Resources, Coastal Management Division);

d. Louisiana Air Emissions Permit;

e. U.S. Army Corps of Engineers Permit (Dredge and Fill, Section 404 of the Clean Water Act); or

f. appropriate local permits, licenses, certification, registration, or approval.

2. It is the responsibility of the applicant to identify the other applicable permits that may be required. A listing of the permits that the applicant intends to apply for shall be included in the solid waste permit application.

3. The applicant shall provide appropriate documentation to the Office of Environmental Services that the proposed use does not violate zoning or other land-use regulations that exist at the time of the submittal of the standard permit application.

G. Suspension, Revocation, Modification, or Termination of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend, revoke, or modify a permit in whole or in part in accordance with the procedures outlined in the Administrative Procedure Act. If a permit holder requests termination of a permit, the administrative authority may terminate the permit with or without a review of the permit. Public notice is not required for termination of permits when the permit is terminated at the request of the permit holder.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2518, 2519 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005), LR 33:1035 (June 2007), LR 33:2143 (October 2007), LR 37:3236 (November 2011) repromulgated LR 37:3509 (December 2011).

## §513. Permit Process for Existing Facilities and for Proposed Facilities

A. Applicability. Solid waste permit applications and application processing shall be subject to the following requirements.

1. Permit holders who have been issued a final permit or modification prior to November 20, 2011, and have been issued an order to commence prior to November 20, 2011, shall follow the existing permit or modification. Any changes requested to the existing permit shall follow the procedures outlined in Subsections B-K of this Section.

2.a. Permit holders who have been issued a final permit or modification prior to November 20, 2011, and have not been issued an order to commence prior to November 20, 2011, shall submit a construction certification to the Office of Environmental Services, signed by a professional engineer licensed in the state of Louisiana, after completion of any necessary construction or upgrades, that the facility has been constructed or upgraded in accordance with the permit. Unless a longer time period is set by mutual agreement, within 15 working days of receipt of construction certification by the Office of Environmental Services, the administrative authority shall conduct a start-up inspection. Within 15 working days after a new, existing, or modified facility has undergone an initial start-up inspection, the administrative authority shall either issue an order authorizing commencement of operations or a written notice of deficiency to the permittee, unless a longer time period is set by mutual agreement.

b. Permit holders who have been issued an initial final permit prior to November 20, 2011, and have not been issued an order to commence prior to November 20, 2011, shall provide written confirmation from the appropriate municipal or parish governing authority where the facility will be located, dated within one hundred eighty 180 days prior to receiving an order to commence, indicating that the facility is or will be in compliance with all existing local zoning and land use restrictions.

3. Applicants for solid waste permits or major modifications who submitted an application prior to November 20, 2011, and have not yet been issued a final permit shall not be required to submit a new application form, unless required by the administrative authority. However, those applicants shall be required to comply with the requirements of LAC 33:VII.513.B.1 and 2, as applicable.

4. All solid waste permit applications and modification applications submitted after November 20, 2011, shall follow the procedures of LAC 33:VII.513.B-K, as applicable.

B. Pre-Application Requirements. All prospective applicants for solid waste permits, except for those applicants exempted under Paragraphs 9-12 of this Subsection, shall comply with the following requirements prior to submitting an application for a solid waste permit.

1. The prospective applicant shall conduct a capacity evaluation regarding the need for the type of facility to be requested in the location proposed. This capacity evaluation shall consider existing capacity within the proposed service area of the facility. The prospective applicant shall forward the results of the evaluation to the administrative authority for review. The administrative authority shall respond to the evaluation within 90 days of submittal and the response shall indicate the administrative authority's concurrence or non-concurrence.

2. The prospective applicant shall obtain written confirmation from the appropriate municipal or parish governing authority where the facility is proposed to be located indicating that the facility is or will be in compliance with all existing local zoning and land use restrictions. The written confirmation may be submitted on a form provided in the application. The prospective applicant shall forward a copy of the written confirmation to the administrative authority for review. If the municipal or parish governing authority fails to provide to the applicant the requested written confirmation within 90 days of the request by the applicant, the applicant shall provide all information submitted to the municipal or parish governing authority regarding the request to the administrative authority and may submit the permit application without the written

confirmation. Failure to include the written confirmation with applications submitted after the 90 day time frame above shall not constitute grounds for the application to be deemed administratively incomplete in accordance with LAC 33:I.1505. The administrative authority shall request that the municipal or parish governing authority provide a response within 60 days. If the municipal or parish governing authority fails to provide a response to the department within the 60 days, the administrative authority shall consider the applicant in compliance with all existing local zoning and land use restrictions.

3. The prospective applicant shall file an *emergency response plan*, as defined in LAC 33:VII.115.A, with the Louisiana state fire marshal as a special structures plan, prior to submittal of a new or renewal application for a solid waste permit. The content of the plan shall be in accord with applicable sections of LAC 33:VII.Chapter 7. A copy of the plan shall also be sent to the Office of Environmental Services. Except as provided for in LAC 33:VII.513.B.4 or 5, no application for a permit to process or dispose of solid waste shall be filed with nor accepted by the administrative authority until the plan is approved by the Louisiana state fire marshal. The prospective applicant shall forward a copy of the approval to the Office of Environmental Services. The approved emergency response plan shall be considered applicable to subsequent permit applications submitted by the same applicant, unless a revised plan is filed with the Louisiana state fire marshal. After June 20, 2011, a revised plan shall be filed with the Louisiana state fire marshal prior to submittal of a renewal application.

4. The requirements of Paragraph B.3 of this Section shall not apply if the prospective applicant can demonstrate that he has the ability to meet the emergency response requirements listed below. The prospective applicant shall provide this demonstration to the Office of Environmental Services and the Louisiana state fire marshal, at least 30 days prior to submittal of a new or renewal solid waste application.

a. Requirements for Demonstration

i. The prospective applicant shall describe arrangements (including contracts, where applicable) for providing his own emergency response services.

ii. The minimum qualification for firefighters/emergency responders shall be that of operations level responder from the National Fire Protection Association, Standard 472, or other appropriate requirement from an applicable National Fire Protection Association standard. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

iii. The demonstration shall include a list of all emergency equipment at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment.

5. The requirements of Paragraph B.3 of this Section shall not apply to permit modification requests, or to applications for permits (initial or renewal), deemed technically complete prior to June 20, 2011, except as directed by the administrative authority.

6. Pre-Application Public Notice

a. Prospective applicants shall publish a notice of intent to submit an application for a permit. This notice shall be published within 45 days prior to submission of the application to the Office of Environmental Services. This notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state and a major local newspaper of general circulation in the area where the facility is located. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the legal or public notices section of the official journal of the state shall be the only public notice required.

b. The public notice shall be published in accordance with the form provided in LAC 33:VII.3001.Appendix A.

7. Post-Application Public Notice

a. All applicants shall publish a notice of application submittal within 45 days after submitting the application to the Office of Environmental Services. This public notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state and a major local newspaper of general circulation in the area where the facility is located. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the legal or public notices section of the official journal of the state shall be the only public notice required.

b. The public notice shall be published in accordance with the form provided in LAC 33:VII.3003.Appendix B.

8. All prospective applicants are encouraged to meet with representatives of the Waste Permits Division prior to the preparation of a solid waste permit application to inform the department of the plans for the facility.

9. Applicants who are Type I only and who also do not propose to accept waste from off-site, other than off-site waste from affiliated persons, such as the applicant or any person controlling, controlled by, or under common control with, the applicant, are exempt from the requirements of LAC 33:VII.513.A.2.b and Paragraphs 1-2 of this Subsection.

10. Applicants for renewal or major modification of an existing permit are exempt from the requirements of Paragraphs 1-2 of this Subsection, provided that the application does not include changes that would constitute a physical expansion of the area(s) in which solid wastes are disposed beyond the facility's existing boundaries as set forth in the facility's existing permit.

11. Applicants for closure permits, applicants seeking authorization under a general permit, and minor modification requests are exempt from Paragraphs 1-5 of this Subsection.

12. Applicants whose types are I-A only or II-A only, or both I and I-A or both I-A and II-A are exempt from the requirements of Paragraphs 1 and 2 of this Subsection.

C. Permit Application Requirements

1. Any person who generates, transports, or stores solid waste, and is not issued a permit, but is under the jurisdiction of the department, shall comply with the applicable provisions of these regulations.

2. Submittal of Permit Applications

a. Any applicant for a standard permit for existing or proposed processing or disposal facilities shall complete all parts of a permit application as described in LAC 33:VII.519, and submit three paper copies to the Office of Environmental Services. All applicants shall also submit three electronic copies of the application, in a format acceptable to the department, with the submittal of the paper copies. All attachments shall be marked with appropriate tabs. In lieu of submitting three paper and three electronic copies of the permit application, the applicant may submit the permit application electronically via the internet when the department's internet site allows for such submittals.

b. Any applicant seeking authorization under a general permit shall follow the application/notice of intent provisions specified in the general permit.

c. Any applicant for a closure permit shall file an application for a closure permit. The closure permit application shall provide the information specified in LAC 33:VII.515.

d. Each application for which a permit application fee is prescribed shall be accompanied by a remittance in the full amount of the appropriate fee. No application shall be accepted or processed prior to payment of the full amount specified.

e. A completed separate standard permit application for each existing facility shall be submitted to the Office of Environmental Services within 180 days after issuance of a temporary permit.

f. All applications submitted shall be available for public review via the department's electronic document management system as soon as practicable, subject to the confidentiality provisions of LAC 33:I.Chapter 5.

D. Notices to Parish Governing Authorities. As provided in R.S. 30:2022, upon receipt of a permit application the Office of Environmental Services shall provide written notice on the subject matter to the parish governing authority, which shall promptly notify each parish municipality affected by the application.

E. Permit Application Review and Evaluation

1. LAC 33:VII.Chapters 5, 7, 8, 13 and 15 establish the evaluation criteria used by the administrative authority.

2. The applicant shall make available to the department the assistance of professional engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

3. The applicant shall furnish all other technical information the department may require to evaluate the standard permit application, monitor the performance of the facility, and insure that the purposes of this program are met.

F. Standard Permit Applications Deemed Unacceptable or Deficient

1. Applications deemed unacceptable for technical review will be rejected. For the administrative authority to reconsider the application, the applicant shall resubmit the entire standard permit application to the Office of Environmental Services, including the review fee, by a reasonable due date set by the administrative authority.

2. Applicants submitting applications that are acceptable for technical review, but lack the information outlined in these regulations, will be informed of such deficiencies. These deficiencies shall be corrected by the submission of supplementary information by a reasonable due date set by the administrative authority.

3. The supplementary information as referenced in Paragraph F.2 of this Section shall address all deficiencies and/or show significant progression in addressing all outstanding deficiencies, or the application may be denied.

G. Draft Permit Decision

1. Once an application is deemed technically complete, the administrative authority shall prepare a draft permit decision to issue or deny the requested permit. If a draft permit is prepared, the draft permit shall contain the following information.

a. all conditions proposed for a final permit under LAC 33:VII.Subpart 1; and

b. any compliance schedules proposed for the facility.

2. Fact Sheet. For all draft permit decisions, including draft denials, the administrative authority shall prepare a fact sheet describing the department's reasoning for the issuance of the draft permit decision. The fact sheet shall contain:

a. a brief description of the facility and the activity which is the subject of the draft permit decision;

b. the type and quantity of wastes which are proposed to be or are being processed or disposed;

c. a brief summary of the justification for the draft permit conditions (not applicable to draft denials), including references to any applicable statutes or regulations;

d. a description of the procedures for reaching a final decision including:

i. a description of the public comment period under LAC 33:VII.513.G.3 and the address where comments will be received; and

ii. procedures for requesting a hearing;

e. the name and telephone number of a person to contact for additional information; and,

f. any additional information, as necessary.

3. Public Notice. The Office of Environmental Services shall publish a notice of the draft permit decision one time as a single classified advertisement in the legal or public notices section of the official journal of the state and a major local newspaper of general circulation in the area where the facility is located. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the official journal of the state shall be the only public notice required. The public notices shall solicit comment from interested individuals and groups. Comments received by the administrative authority within the timeframe specified in the public notice shall be reviewed by the Office of Environmental Services prior to the preparation of a final decision. The costs of publication shall be borne by the applicant. The applicant shall furnish the contact information (including name and/or title, address, and telephone number) for the person who shall be responsible for receiving the invoice from the newspaper(s). Proof of payment for the public notice shall be provided to the administrative authority if requested.

4. A copy of the draft permit decision shall be sent to the parish library in the parish where the facility is located for public review.

5. A copy of the draft permit decision shall be sent to the appropriate regional office and shall be made available for public review.

6. Closure permits based on closure plans or applications, if not received as part of a permit application for a standard permit, shall not follow the draft permit decision process. Once a closure plan or application is deemed adequate, the administrative authority shall issue a closure permit.

H. Issuance of a Final Permit Decision

1. The administrative authority shall issue a standard permit or a general permit, or shall issue a standard permit denial, including reasons for the denial, after the public notice period specified in Paragraph G.3 of this Section has ended.

2. A closure permit may be issued to allow closure activities to be accomplished at a facility that has been issued a standard permit denial but has previously accepted waste under a prior permit or an order.

3. The administrative authority may issue authorization to operate under the conditions of a general permit in lieu of a standard permit, provided the applicant meets the requirements to operate under the general permit.

I. Public Notice of Final Permit Decision for Standard or General Permit. No later than 20 days following the issuance of a final permit decision for a standard or general permit, the administrative authority shall publish a notice of the final permit decision on the department's internet site, in the public notices section. This does not apply to authorizations to operate under a general or regulatory permit. No notice will be sent, except to those persons who commented on the draft permit decision and to those persons who have requested to be provided written notice.

J. As a permit condition, the department shall establish a time frame for the facility to submit any necessary construction certifications required by the administrative authority.

K. All necessary construction shall begin within 18 months of the effective date of the permit, unless a longer term is specified in the permit. If a permittee fails to begin construction within the 18 month period or as otherwise specified in the permit, the permittee shall repeat performance of the requirements listed in Subsection B (pre-application requirements) of this Section. The performance of these requirements shall be repeated by the permittee every 18 months until construction begins.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2519 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005), LR 33:1037 (June 2007), LR 33:2143 (October 2007), LR 37:1563 (June 2011), LR 37:3238 (November 2011), repromulgated LR 37:3510 (December 2011).

# Subchapter C. Permit System for Facilities Classified for Upgrade or Closure

## §515. Permit Process for Existing Facilities Classified for Closure

A. Closure Plan Review and Evaluation. LAC 33:VII.403 and Chapters 7 and 8 establish the criteria used by the Office of Environmental Services in evaluating closure plans.

B. Submittal of Closure Plans

1. Permit holders for facilities classified for closure shall submit to the Office of Environmental Services three paper copies and three electronic copies, in a format acceptable to the department, of a closure plan within 60 days after issuance of the temporary permit for the facility. All attachments shall be marked with appropriate tabs.

2. The following Sections of the regulations shall be addressed and incorporated in the closure plan for all solid waste processing and disposal facilities. All responses and exhibits shall be identified in the following sequence to

facilitate the evaluation. All applicable Sections of LAC 33:VII.Chapters 5, 7, and 8 shall be addressed and incorporated into the closure plan:

a. LAC 33:VII.519.B;

b. a map clearly delineating the location of the facility;

c. LAC 33:VII.709.A.10.a and b, Wells and Faults, respectively (only required for Type I and II facilities with on-site closure);

d. those portions of LAC 33:VII.Chapter 7 pertaining to facility characteristics;

e. LAC 33:VII.519.B.2, Facility Surface Hydrology;

f. LAC 33:VII.801.A, General Facility Geology (only required for Type I and II facilities that have not undergone clean closure);

g. LAC 33:VII.803, Subsurface Characterization (only required for Type I and II facilities that have not undergone clean closure);

h. LAC 33:VII.519.B.10, Facility Groundwater Monitoring (only required for Type I and II facilities that have not undergone clean closure);

i. LAC 33:VII.519.B.3, Facility Plans and Specifications (only required for Type I and II facilities with on-site closure and with a potential to produce gases);

j. the types (including chemical and physical characteristics) and sources of waste processed or disposed of at the facility;

k. LAC 33:VII.519.B.6, Facility Closure;

l. LAC 33:VII.519.B.7.a, Facility Post-Closure;

m. LAC 33:VII.519.B.7.b, Facility Post-Closure (only required for Type I and II facilities that have not undergone clean closure);

n. the name of the person who currently owns the land;

o. LAC 33:VII.519.B.8, Financial Responsibility; and

p. a detailed implementation schedule for closure of the facility with built-in flexibility to coincide with the date of approval of the closure plan.

3. Each closure plan for which a closure fee is prescribed shall be accompanied by a remittance in the full amount of the closure plans review fee. No closure plans shall be accepted or processed prior to payment of the full amount specified.

C. Closure Plans Determined Unacceptable or Deficient

1. Closure plans that are determined unacceptable for a technical review will be rejected. The permit holder shall be required to resubmit the entire application to the Office of Environmental Services, including the review fee, by a date set by the administrative authority.

2. Permit holders submitting closure plans that lack the information contained in Paragraph B.2 of this Section and the applicable standards of LAC 33:VII.Chapters 7 and 8 shall be informed of such in a closure plan deficiency letter; these shall be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter.

D. Closure Plans Deemed Technically Complete. Closure plans that have been deemed technically complete shall be approved by issuance of a closure permit. The facility shall comply with the closure permit for all closure activities performed for closing the facility. If the facility received approval of a closure plan prior to November 20, 2011, the facility shall comply with the approved closure plan.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2489 (October 2005), LR 33:1038 (June 2007), LR 33:2144 (October 2007), LR 37:3240 (November 2011), repromulgated LR 37:3510 (December 2011).

## §517. Modifications of Permits and Other Authorizations to Operate

A. Modification Requests

1. The permit holder shall submit a permit modification request to the Office of Environmental Services, for any changes in a facility or deviation from a permit. All permit modification requests shall detail the proposed modifications and shall include an assessment of the effects of the modification on the environment and/or the operation. Modification details shall include, but not be limited to, a summary detailing the modification request and all appropriate drawings, narratives, etc., which shall illustrate and describe the originally-permitted representations and the proposed modifications thereto. New language requested in the permit narrative and existing language requested to be deleted from the permit shall be identified therein.

a. Modification requests shall be submitted using the appropriate permit application form. Only those sections that are proposed for modification shall be completed. The administrative authority may request further information so that a proper determination may be made. Three paper copies and three electronic copies, in a format acceptable to the department, of all modification requests shall be provided to the Office of Environmental Services. The modification request shall incorporate, in the appropriate sections, all required plans and narratives and shall include appropriate tabbing, if applicable, for all attachments. A facility seeking to modify its permit to include changes that constitute a physical expansion of the area(s) in which solid wastes are disposed beyond the facility's existing boundaries

as set forth in the facility's existing permit shall follow the pre-application requirements listed at LAC 33:VII.513.B.

b. Each permit-modification request for which a permit-modification review fee is prescribed shall be accompanied by remittance of the fee. No permit modification requests shall be accepted or processed prior to payment in full of the amount specified.

2. All proposed changes in ownership shall comply with the provisions specified in LAC 33:I.Chapter 19.

3. All major modification requests shall address the additional supplemental information required pursuant to LAC 33:VII.519.B.9 in relation to the proposed permit modification activity.

B. Public Notice of Modifications

1. Major modifications require public notice after a draft permit decision is prepared. Modifications to a permit that require public notice include, but are not limited to, the following:

a. a change in the types of waste to be received at a facility (e.g., where a facility is modified to accept industrial waste);

b. an increase in the volume or rate of waste to be received at a facility;

c. a physical expansion of the service area;

d. an increase in the capacity of a facility;

e. an extension of the operating hours or days of operation;

f. a change to the facility that may have an impact on traffic patterns;

g. a reduction in the number of groundwater sampling parameters or the number of groundwater monitoring wells;

h. a lateral or vertical expansion of the permitted area(s) for waste disposal, except for vertical expansion that would result in no net increase of in-place volume; or

i. other changes in the permit that tend to make the permit requirements less stringent.

2. Once a permit modification that requires public notice has been determined by the Office of Environmental Services to be technically complete, the department shall prepare a draft permit decision following the procedures of LAC 33:VII.513.G.

3. Mandatory modifications are considered to be enhancements and will require neither public notice nor public hearing.

C. No modification shall be instituted without the written approval of the administrative authority as follows:

1. For major modifications, the administrative authority shall issue a final permit decision after the public notice period required in LAC 33:VII.517.B.2. Final permit decisions shall follow the procedures outlined in LAC 33:VII.513.H and I.

2. For minor modifications, the administrative authority shall issue a final permit decision after review of the requested modification.

D. Operation of a modified construction feature or unit of a standard permitted facility may commence after the provisions of LAC 33:VII.407.C are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2490 (October 2005), LR 33:1039 (June 2007), LR 33:2145 (October 2007), LR 37:3241 (November 2011).

## Subchapter D. Permit Application

### §519. Permit Application Form(s)

A. The applicant shall complete a standardized permit application Form obtained from the Office of Environmental Services or the department's website. The form(s) to be used shall be based on the type of facility involved. If the application is for multiple facility types or unit types, the applicant shall combine the application forms into one application with common attachments. The application shall be completed following the information provided in the application guidance document, if applicable. Application form requirements shall be based on all Sections of LAC 33:VII as applicable.

B. Application Contents

1. General Facility Information. The following information is required from all applicants:

a. the name of the applicant (prospective permit holder) applying for a permit;

b. the facility name;

c. a description of the location of the facility (identify by street and number or by intersection of roads, or by mileage and direction from an intersection);

d. the geographic location (section, township, range, and parish where the facility is located, and the coordinates, as defined by the longitude and latitude to the second), of the center point of the facility;

e. the mailing address of the applicant;

f. the contact person for the applicant (the position or title of the contact person is acceptable);

g. the telephone number of the contact person;

h. the type and purpose of the operation (check each applicable box);

i. the status of the facility (if leased, state the number of years of the lease and provide a copy of the lease agreement);

j. the operational status of the facility;

k. the total site acreage and the amount of acreage that will be used for processing and/or disposal;

l. a list of all environmental permits that relate directly to the facility represented in this application, including:

i. those permits which the applicant has been issued with dates of issuance; and

ii. those permits for which the applicant has applied or intends to apply;

m. the zoning of the facility that exists at the time of the submittal of the permit application. (Note the zone classification and zoning authority, and include documentation stating that the proposed use does not violate existing land-use requirements. Written confirmation required by LAC 33:VII.513.B.2 shall be sufficient to satisfy the documentation requirement);

n. the types of waste to be processed or disposed by the facility, maximum quantities (wet tons/week and wet tons/year) of waste to be processed or disposed by the facility, and sources of waste to be processed or disposed by the facility. The applicant shall provide a breakdown (by percent) of the following:

i. all waste processed or disposed that is to be generated on-site;

ii. all waste processed or disposed that is to be received from off-site sources located within Louisiana; and

iii. all waste processed or disposed that is to be received from off-site sources located outside of Louisiana;

o. the specific geographic area(s) to be serviced by the solid waste facility;

p. proof of publication of the notice regarding the submittal of the permit application as required in LAC 33:VII.513.B.6;

q. the signature, typed name, and title of the r*esponsible official* as defined in LAC 33:VII.115 authorized to sign the application;

r. proof of notification to the nearest airport and the Federal Aviation Administration; and

s. for previously permitted facilities, a brief history of the permit actions that have occurred at the site, including permits, modifications, and closure activities.

2. The following information regarding facility surface hydrology is required for all facilities:

a. a description of the method to be used to prevent surface drainage through the operating areas of the facility;

b. a description of the facility runoff/run-on collection system;

c. the rainfall amount from a 24-hour/25-year storm event;

d. the location of aquifer recharge areas in the site or within l,000 feet of the site perimeter, along with a description of the measures planned to protect those areas from the adverse impact of operations at the facility; and

e. if the facility is located in a flood plain, a plan to ensure that the facility does not restrict the flow of the 100-year base flood or significantly reduce the temporary water-storage capacity of the flood plain, and documentation indicating that the design of the facility is such that the flooding does not affect the integrity of the facility or result in the washout of solid waste.

3. The following information regarding facility plans and specifications is required for all facilities, unless otherwise indicated:

a. Certification. The person who prepared the permit application shall provide the following certification:

"I certify under penalty of law that I have personally examined and I am familiar with the information submitted in this permit application and that the facility as described in this permit application meets the requirements of LAC 33:VII.Subpart 1. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment."

b. Geotechnical field tests and laboratory tests shall be conducted in compliance with LAC 33:I.Subpart 3 and according to the standards of the American Society for Testing and Materials (ASTM) or the EPA or other applicable standards approved by the administrative authority. The results of these tests may be used for modeling and analysis purposes.

c. The following information is required for Type I and II facilities only:

i. detailed plan-view drawings showing original contours, proposed elevations of the base of units prior to installation of the liner system, and proposed final contours (e.g., maximum height);

ii. detailed drawings of slopes, levees, and other pertinent features;

iii the type of material and its source for levee construction. Calculations shall be performed to indicate the volume of material required for levee construction;

iv. representative cross sections showing original and final grades, drainage, the location and type of liner, and other pertinent information;

v. a description of the liner system, which shall include calculations of anticipated leachate volumes, rationales for particular designs of such systems, and drawings; and

vi. a description of the leachate collection and removal system, which shall include calculations of anticipated leachate volumes, rationales for particular designs of such systems, and drawings.

d. The following information is required for Type I, II, and III landfills only:

i. approximate dimensions of daily fill and cover; and

ii. the type of cover material and its source for daily, interim, and final cover. Calculations shall be performed to indicate the volume of material required for daily, interim, and final cover.

4. The following information regarding facility administrative procedures is required for all facilities as indicated:

a. The following information is required for all facilities:

i. a description of the recordkeeping system, including types of records to be kept, and the use of records by management to control operations as required;

ii. an estimate of the minimum personnel, listed by general job classification, required to operate the facility;

iii. the maximum days of operation per week and hours per facility operating day (maximum hours of operation within a 24-hour period); and

iv. an annual report or certification of compliance submitted to the administrative authority.

b. Type II and Type III facilities shall include the number of certified facility operators determined and certified by the Louisiana Solid Waste Operator Certification and Training Program Board (R.S. 37:3151 et seq. and LAC 46:Part XXIII).

5. The following information regarding facility operational plans is required for all facilities as indicated:

a. The following information is required for all facilities:

i. types of waste (including chemical, physical, and biological characteristics of industrial wastes generated on-site), maximum quantities of wastes per year, and sources of waste to be processed or disposed of at the facility;

ii. waste-handling procedures from entry to final disposition, which could include shipment of recovered materials to a user;

iii. minimum equipment to be furnished at the facility;

iv.plan to segregate wastes, if applicable;

v. procedures planned in case of breakdowns, inclement weather, and other abnormal conditions (including detailed plans for wet-weather access and operations);

vi. procedures, equipment, and contingency plans for protecting employees and the general public from accidents, fires, explosions, etc., and provisions for emergency response and care, should an accident occur (including proximity to a hospital, fire and emergency services, and training programs); and

vii. provisions for controlling vectors, dust, litter, and odors;

viii. a comprehensive operational plan describing the total operation, including but not limited to, inspection of incoming waste to ensure that only permitted wastes are accepted (Type II landfills shall provide a plan for random inspection of incoming waste loads to ensure that hazardous wastes or Toxic Substances Control Act (TSCA) regulated PCB wastes are not disposed of in the facility.); traffic control; support facilities; equipment operation; personnel involvement; and day-to-day activities. A quality-assurance/quality-control (QA/QC) plan shall be provided for facilities receiving industrial waste; domestic-sewage sludge; incinerator ash; asbestos-containing waste; nonhazardous petroleum-contaminated media; and debris generated from underground storage tanks (UST), corrective action, or other special wastes as determined by the administrative authority. The QA/QC plan shall include, but shall not be limited to, the necessary methodologies; analytical personnel; preacceptance and delivery restrictions; handling procedures; and appropriate responsibilities of the generator, transporter, processor, and disposer. The QA/QC plan shall ensure that only permitted, nonhazardous wastes are accepted;

ix. salvaging procedures and control, if applicable;

x. scavenging control; and

xi. a comprehensive air monitoring plan for facilities receiving waste with a potential to produce methane gases.

b. The following information is required for Type I and II landfarms only:

i. Items to be submitted, regardless of land use, include:

(a). a detailed analysis of waste, including but not limited to, pH, phosphorus, nitrogen, potassium, sodium, calcium, magnesium, sodium-adsorption ratio, and total metals (as listed in LAC 33:VII.715.D.3.b);

(b). soil classification, cation-exchange capacity, organic matter, content in soil, soil pH, nitrogen, phosphorus, metals (as listed in LAC 33:VII.715.D.3.b), salts, sodium, calcium, magnesium, sodium-adsorption ratio, and PCB concentrations of the treatment zone; and

(c). annual application rate (dry tons per acre) and weekly hydraulic loading (inches per acre).

ii. Items to be submitted in order for landfarms to be used for food-chain cropland include:

(a). a description of the pathogen-reduction method for septage, domestic sewage sludges, and other sludges subject to pathogen production;

(b). crops to be grown and the dates for planting;

(c). PCB concentrations in waste;

(d). annual application rates of cadmium and PCBs; and

(e). cumulative applications of cadmium and PCBs.

iii. Items to be submitted for landfarms to be used for non-food-chain purposes include:

(a). a description of the pathogen-reduction method for septage, domestic sewage sludges, and other sludges subject to pathogen production; and

(b). a description of control of public and livestock access.

c. The following information is required for Type I-A and II-A incinerator waste-handling facilities and refuse-derived energy facilities only:

i. a description of the method used to handle process waters and other water discharges that are subject to NPDES/LPDES permit and state water discharge permit requirements and regulations; and

ii. a plan for the disposal and periodic testing of ash. (All ash and residue shall be disposed of in a permitted facility.).

d. The following information is required for Type I-A and II-A refuse-derived fuel facilities and Type III separation and composting facilities only:

i. a description of the testing to be performed on the fuel or compost; and

ii. a description of the uses for and the types of fuel/compost to be produced.

e. Type I-A and II-A refuse-derived fuel facilities and Type III separation and composting facilities shall include a description of marketing procedures and control.

6. The following information regarding facility closure is required for all facilities as indicated:

a. The closure plan for all facilities shall include the following:

i. the date of final closure;

ii. the method to be used and steps necessary for closing the facility; and

iii. an itemized cost of closure of the facility, based on the estimated cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive.

b. The closure plan for all Type I and II landfills and surface impoundments shall include the following:

i. a description of the final cover and the methods and procedures used to install the cover;

ii. an estimate of the largest area of the facility ever requiring a final cover at any time during the active life;

iii. an estimate of the maximum inventory of solid waste ever on-site over the active life of the facility;

iv. a schedule for completing all activities necessary for closure;

c. The closure plan for all Type I and II facilities and Type III woodwaste and construction/demolition debris facilities shall include the following:

i. the sequence of final closure of each unit of the facility, as applicable;

ii. a drawing showing final contours of the facility; and

iii. a copy of the document that will be filed upon closure of the facility with the official parish recordkeeper indicating the location and use of the property for solid waste disposal, unless the closure plan specifies a clean closure.

7. The following information regarding facility post-closure is required for all facilities as indicated:

a. The post-closure plan for all facilities shall include the following:

i. discussion of the long-term use of the facility after closure, as anticipated; and

ii. an itemized cost of conducting post-closure of the facility, based on the estimated cost of hiring a third party to conduct post-closure activities in accordance with the closure plan.

b. The post-closure plan for Type I and II facilities shall include the following:

i. the method for conducting post-closure activities, including a description of the monitoring and maintenance activities and the frequency at which they will be performed;

ii. the method for abandonment of monitoring systems, leachate collection systems, gas-collection systems, etc.;

iii. measures planned to ensure public safety, including access control and gas control; and

iv. a description of the planned uses of the facility during the post-closure period.

8. Documentation of financial responsibility meeting the requirements of LAC 33:VII.Chapter 13 shall be included for all facilities. The following shall be included in the documentation:

a. the name and address of the person who currently owns the land and the name and address of the person who will own the land if the permit is granted (if different from the permit holder, provide a copy of the lease or document which evidences the permit holder's authority to occupy the property); or

b. the name of the agency or other public body that is requesting the permit, or if the agency is a public corporation, its published annual report, or if otherwise, the names of the principal owners, stockholders, general partners, or officers;

c. existing facilities shall provide evidence of a financial assurance mechanism for closure and/or post-closure care and corrective action for known releases when needed. Proposed facilities shall acknowledge they will be required to obtain financial assurance in accordance with LAC 33:VII.1303.A.2.

9. Information regarding facility site assessments is required for all facilities as indicated:

a. The following information is required for all solid waste processing and disposal facilities. All responses and exhibits shall be identified in the following sequence to facilitate the evaluation:

i. a discussion demonstrating that the potential and real adverse environmental effects of the facility have been avoided to the maximum extent possible;

ii. a cost-benefit analysis demonstrating that the social and economic benefits of the facility outweigh the environmental-impact costs;

iii. a discussion and description of possible alternative projects that would offer more protection to the environment without unduly curtailing nonenvironmental benefits;

iv. a discussion of possible alternative sites that would offer more protection to the environment without unduly curtailing nonenvironmental benefits; and

v. a discussion and description of the mitigating measures which would offer more protection to the environment than the facility, as proposed, without unduly curtailing nonenvironmental benefits.

b. An application for renewal or extension of an existing permit shall not be subject to submittal of the information required in LAC 33:VII.519.B.9.a, unless said renewal or extension encompasses changes that would constitute a major modification.

c. An application for a minor modification of an existing permit shall not be subject to submittal of the information required in LAC 33:VII.519.B.9.a.

10. The following facility groundwater monitoring information is required for all Type I and II facilities only:

a. a designation of each zone that will be monitored;

b. a map for each groundwater monitoring zone that depicts the locations of all monitoring wells (including proposed monitoring wells) that are screened in a particular zone and each zone's relevant point of compliance, along with information that demonstrates that monitoring wells meet the standards in LAC 33:VII.805.A.1 and 2. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting a revised well location map showing all existing and proposed monitoring wells that are screened in each particular zone;

c. a geologic cross section along the perimeter of the facility showing screen intervals for existing and proposed monitoring wells, along with other applicable information required in LAC 33:VII.803.C.2.a. For proposed monitoring wells, the response to this requirement shall include an implementation schedule for revising applicable geologic cross sections to include the screen interval of the newly installed monitoring wells and other applicable information required in LAC 33:VII.803.C.2.a;

d. a designation of each monitoring well (including any proposed monitoring wells) as either “background” or “down gradient,” for each zone that will be monitored;

e. a table displaying pertinent well construction details for each monitoring well, including the elevation of the reference point for measuring water levels to the National Geodetic Vertical Datum (NGVD), the elevation of the ground surface (NGVD), the drilled depth (in feet), the depth to which the well is cased (in feet), the depth to the top and bottom of the bentonite seal (in feet), the depth to the top and bottom of the screen (in feet), the slot size, the casing size, and the type of grout; and as-built diagrams (cross sections) of each well providing the aforementioned well construction details. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

f. a demonstration that the monitoring wells are constructed according to the standards in LAC 33:VII.805.A.3. For proposed monitoring wells, the response to this requirement shall provide an implementation schedule for submitting the information specified in this requirement;

g. for an existing facility, all background data and at least three years of detection monitoring data from monitoring wells in place at the time of the permit application. If this data exists in the department records, the administrative authority may allow references to the data in the permit application. For an existing facility with no wells, groundwater data shall be submitted within 90 days after the installation of monitoring wells. For a new facility or expansion, groundwater data (one sampling event) shall be submitted before waste is accepted;

h. a sampling and analysis plan that meets the standards in LAC 33:VII.805.B and includes a table that specifies each parameter, analytical method, practical quantitation limit, and Chemical Abstracts Service registry number (CAS RN); and

i. a plan for detecting, reporting, and verifying changes in groundwater.

C. In addition to the specific requirements listed in LAC 33:VII.519.B, the applicant is required to provide all information specified in the specific permit application(s) for the type(s) of facilities for which the applicant is applying. These specific application requirements are based on the technical requirements found in LAC 33:VII.Chapters 7 and 8 and will be specific to the type of application being completed.

D. Incomplete applications will not be accepted for review. When the administrative authority determines an

application is incomplete, it shall notify the applicant. If the applicant elects to continue with the permit application process, the applicant shall follow the requirements provided in the notice. These requirements may include submitting additional information in the form of an application addendum or submitting an entirely new application.

E. All applicants for solid waste permits shall comply with the requirements of LAC 33:I.1701.

F. All applicants shall submit the appropriate application fee as determined by LAC 33:VII.Chapter 15 at the time of application submittal. Any application submitted without the appropriate fee will be determined incomplete and shall not be processed until the fee is remitted.

G. The applicant shall submit any additional information determined necessary by the administrative authority for a proper determination or decision regarding the application, including information determined necessary to prepare a draft or final permit decision. This may include additional information for special processes or systems and for supplementary environmental analysis.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007), LR 33:2145 (October 2007), LR 37:3242 (November 2011).

## Subchapter E. Permit Requirements

### §525. Certification of Compliance

A. All permitted facilities shall submit an annual certification of compliance by October 1 of each year covering the period of July 1 to June 30 immediately preceding the October 1 submittal date. This certification shall be submitted to the Office of Environmental Compliance, Surveillance Division. A form for Part I of the certification can be obtained from the Office of Environmental Compliance, however, Part II of the certification will be site specific and will set forth the site specific conditions that shall be certified in compliance with the permit. At a minimum, in addition to the requirements listed in Subsections B, C, and D of this Section, all certifications shall contain:

1. the name of the permit holder;

2. the address of the permitted facility;

3. the permit number for the facility;

4. the site identification number of the facility;

5. the agency interest identification number of the facility;

6. the name, title, address, and contact telephone number for the billing contact for the facility; and

7. any necessary calculations or conversion factors used for the certification.

B. The certification shall identify each deviation from specific permit conditions that require annual certification occurring during the reporting period and steps taken by the permit holder to return to permit conditions, as well as steps taken to insure deviations of a similar type are prevented in the future. Deviations may or may not constitute a violation of the Louisiana Environmental Quality Act or the solid waste regulations. Facilities with groundwater monitoring programs shall also identify any deviations or exceedances pertaining to the solid waste groundwater monitoring program as well as proposed remedial actions to achieve and maintain compliance with the facility's solid waste permit.

C. All certification forms shall contain the following certification of truth, accuracy, and completeness:

> "*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*"

This certification shall be signed by a responsible official.

D. All permitted facilities shall provide and certify the following information annually and shall provide the methods used for determining compliance (e.g., monitoring, recordkeeping and reporting, etc.):

1. the types and quantities, in wet tons, of solid waste generated, including waste generated but sent off-site for disposal. Landfarm facilities shall report in dry and wet tons;

2. the types and quantities, in wet tons, of solid waste processed, including waste generated on-site and off-site, indicating percentage of each. For waste generated off-site, indicate whether the waste was generated in-state or out-of-state. Landfarm facilities shall report in dry and wet tons;

3. the types and quantities, in wet tons, of solid waste disposed, including waste generated on-site and off-site, indicating percentage of each. For waste generated off-site, indicate whether the waste was generated in-state or out-of-state. Landfarm facilities shall report in dry and wet tons;

4. the permitted capacity in cubic yards and wet tons;

5. the remaining capacity in cubic yards and wet tons;

6. the capacity used in the reporting period in cubic yards and wet tons;

7. the estimated remaining capacity in months and years;

8. the types and quantities (in wet tons and dry tons) of materials sent off-site for reuse and/or recycling, including the end use of the material;

9. for incinerator waste-handling facilities, shredders, balers, compactors, and transfer stations, the types and

quantities of solid waste transported for disposal, in wet tons;

10. the facility has complied with the requirements of the Solid Waste Worker Certification program, if applicable;

11. the facility has paid all fees due to the department. If an invoice is in dispute, include a statement pertaining to the dispute;

12. any specific item required to be certified annually as listed in the permit;

13. for landfill facilities, the permitted total height of the landfill, including all cover materials;

14. for landfill facilities, the current height of the landfill, including all cover. The method of measurement shall be included in the certification, as well as the date the measurement was taken;

15. for air curtain destructors, identify the site and quantity of solid waste processed at each individual site;

16. the facility name, city, and state of the ultimate disposal site for any waste sent off-site for disposal;

17. the facility has updated all financial assurance estimates; and

18. the facility has updated, if required, its financial assurance mechanism.

E. In addition to those items listed in Subsection D of this Section, those permit holders who received their permit prior to November 20, 2011, shall also certify the following:

1. all reports required by the permit or regulations have been submitted as required; and

2. monitoring requirements have been met.

F. Permit holders who are issued a major modification after November 20, 2011, shall submit the annual compliance certification as specified in Subsection D of this Section and in the modified permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:3246 (November 2011), repromulgated LR 37:3511 (December 2011).

## §527. Construction Schedules

A. Final permits may allow or require the construction or upgrade of permitted units. If a permit allows or requires the construction or upgrading of a unit that is (or will be) directly involved in the processing or disposal of solid waste, the facility shall submit reports, on a schedule specified in the permit, describing the completed and current activities at the site from the beginning of the construction period until the construction certification required by LAC 33:VII.407.C is submitted to the Office of Environmental Services. The reports shall be submitted to the Waste Permits Division and the appropriate LDEQ Regional Office. These reports shall include, at a minimum, the following information:

1. a summary of construction activities to date;

2. the percentage of work completed to date;

3. the current status of the work;

4. details regarding the work scheduled to occur in the next reporting period;

5. details of the work successfully completed since the last report;

6. weather conditions for the reporting period and impacts, if any;

7. details regarding any quality control or quality assurance problems encountered; and

8. any additional information requested by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:3247 (November 2011).

## §529. Conditions Applicable to All Permitted Facilities

A. The following conditions apply to all solid waste permits.

1. The permit holder shall comply with all conditions of a permit except that the permit holder need not comply with the conditions of a permit to the extent and for the duration such noncompliance is authorized in an emergency permit or order. Any permit noncompliance constitutes a violation of the Act and any amendments to the Act, and is grounds for enforcement action, permit suspension, revocation or modification, or denial of a permit renewal application.

2. It shall not be a defense for a permit holder in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of a permit.

3. The permit holder shall take all necessary steps to minimize and/or correct any adverse impact on the environment resulting from noncompliance with a permit.

4. The permit holder shall at all times properly operate and maintain all facilities and systems which are installed or used by the permit holder to achieve compliance with the conditions of a permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of a permit.

5. The filing of a request by the permit holder for a permit modification, termination, or a notification of planned

changes or anticipated noncompliance, does not stay any permit condition.

6. A permit does not convey any property rights of any sort, or any exclusive privilege.

7. The permit holder shall furnish to the administrative authority, within a reasonable time, any information which may be requested to determine whether cause exists for modifying, revoking, suspending or terminating an effective permit, or to determine compliance with an effective permit. The permit holder shall also furnish, upon request, copies of records required to be kept by a permit.

8. The permit holder shall allow the administrative authority, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. enter upon the permit holder's premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of its permit;

b. have access to and copy, at reasonable times, any records that shall be kept under the conditions of its permit;

c. inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under its permit; and

d. sample or monitor at reasonable times, for the purposes of assuring permit compliance, any substances or parameters at any location.

9. The permit holder shall report any fire, explosion, unplanned sudden or non-sudden release to air, soil, or water which may endanger health or the environment as required by the "Notification Regulations and Procedures for Unauthorized Discharges" (see LAC 33:I.Chapter 39).

10. If the permit holder determines that incorrect or incomplete information was submitted in a permit application or in any report to the administrative authority, the permit holder shall promptly submit such facts or information to the Office of Environmental Services.

11. A permit issued under these regulations does not authorize non-compliance with any other federal, state, or local regulation, law, or statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:3247 (November 2011).

# Chapter 7. Solid Waste Standards

## Subchapter A. Landfills, Surface Impoundments, Landfarms

### §709. Standards Governing Type I and II Solid Waste Disposal Facilities

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type I and II solid waste disposal facilities.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings must be legible. Area master plans shall show:

a. the facility;

b. the road network;

c. major drainage systems;

d. drainage-flow patterns;

e. the location of the closest population centers;

f. if the facility disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);

g. the location of the 100-year flood plain, based on the most recent data; and

h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that dispose of putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used by only piston-type aircraft. Permit applicants for proposed Type II landfills to be located within a 5-mile radius of any airport runway must notify the affected airport and the Federal Aviation Administration.

5. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

a. residential;

b. health-care facilities and schools;

c. agricultural;

d. industrial and manufacturing;

e. other commercial;

f. recreational; and

g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility, is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

8. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located in wetlands, unless the permit holder or applicant can make the following demonstrations to the administrative authority:

a. where applicable under Section 404 of the Clean Water Act or applicable state wetlands laws, the presumption that a practicable alternative to the proposed landfill is available that does not involve wetlands is clearly rebutted;

b. the construction and operation of the facility will not:

i. cause or contribute to violations of any applicable state water quality standard;

ii. violate any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act;

iii. jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Endangered Species Act of 1973; and

iv. violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary;

c. the facility will not cause or contribute to significant degradation of wetlands. The owner or operator must demonstrate the integrity of the facility and its ability to protect ecological resources by addressing the following factors:

i. erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the facility;

ii. erosion, stability, and migration potential of dredged and fill materials used to support the facility;

iii. the volume and chemical nature of the waste managed in the facility;

iv. impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

v. the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

vi. any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

d. to the extent required under Section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by Paragraph A.8 of this Section; then, minimizing unavoidable impacts to the maximum extent practicable; and, finally, offsetting remaining unavoidable wetland impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and

e. sufficient information is available to make a reasonable determination with respect to these demonstrations.

9. A statement of the estimated population, the source of the estimation, and the population density, within a 3-mile radius of the facility boundary is required of all facilities.

10. Well, Fault, and Utility Requirements for Type I and II Facilities

a. Wells. A map is required showing the locations of all known or recorded shot holes and seismic lines, private water wells, and oil and/or gas wells, operating or abandoned, within the facility and within 2,000 feet of the facility perimeter and the locations of all public water systems, industrial water wells, and irrigation wells within 1 mile of the facility. A plan shall be provided to prevent adverse effects on the environment from the wells and shot holes located on the facility.

b. Faults

i. A scaled map is required showing the locations of all recorded faults within the facility and within 1 mile of the perimeter of the facility.

ii. For faults mapped as existing through the facility, verification of their presence by geophysical mapping or stratigraphic correlation of boring logs is required. If the plane of the fault is verified within the facility's boundaries, a discussion of measures that will be taken to mitigate adverse effects on the facility and the environment is required.

iii. A demonstration, if applicable, is required of alternative fault setback distance. Units of a disposal facility that have not received waste prior to October 9, 1993, shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the permit holder or applicant demonstrates to the administrative authority that an alternate setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

c. Seismic Impact Zone

i. For a facility located in a seismic impact zone, a report is required with calculations demonstrating that the facility will be designed and operated so that it can withstand the stresses caused by the maximum ground motion, as provided in Clause A.10.c.ii of this Section.

ii. Units of a facility located in a seismic impact zone, which have not received waste prior to October 9, 1993, shall be designed and operated so that all containment structures, including liners, leachate collection systems, and surface water control systems, can withstand the stresses caused by the maximum horizontal acceleration in lithified earth material for the site.

d. Unstable Areas

i. A facility shall not be located in an unstable area unless the permit holder or applicant can demonstrate that the facility is designed to ensure the integrity of structural components, such as liners; leak-detection systems; leachate collection, treatment, and removal systems; final covers; run-on/runoff systems; or any other component used in the construction and operation of the facility that is necessary for the protection of human health or the environment.

ii. In determining whether an area is unstable, the permit holder or applicant must consider, at a minimum, the following factors:

(a). on-site or local soil conditions that may result in significant differential settling;

(b). on-site or local geologic or geomorphological features; and

(c). on-site or local human-made features or events (both surface and subsurface).

e. Utilities. A scaled map showing the location of all pipelines, power lines, and rights-of-way within the site is required.

11. Facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

B. Facility Characteristics. The following facility characteristics are required for Type I and II solid waste facilities.

1. Elements of the disposal system employed shall be provided, including, as applicable, property lines, original contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During non-operating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. Buffer zones of not less than 300 feet shall be provided between the facility and the property line when the property line is adjacent to a structure currently being used as a church and having been used as a church prior to the submittal of a permit application. The requirement for a 300 feet buffer zone between the facility and a church shall not apply to any landfill or disposal facility existing prior to April 1, 2010, to any portion of such facility that has been closed or that has ceased operations, or to future expansions of the permitted disposal area of any such facility. A reduction in this requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 200 feet from the facility (or 300 feet for a church). The facility's owner or operator shall enter a copy of the notarized affidavit(s) in the mortgage and conveyance records of the parish or parishes in which the landowners' properties are located. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with these regulations and for existing facilities.

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. Facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed

of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All disposal facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous waste, TSCA-regulated PCB waste, and unauthorized or unpermitted solid waste). At Type II landfills, this method shall include random inspections of incoming waste loads at a frequency to reasonably ensure exclusion of such prohibited wastes.

b. All facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws, including the federal Clean Water Act and Louisiana Water Pollution Control Law. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

8. Additional information for facilities is required as follows:

a. areas for isolating nonputrescible waste or incinerator ash, and borrow areas; and

b. location of leachate collection/treatment/removal system.

C. Facility geology standards are located in LAC 33:VII.Chapter 8.

D. Implementation Plans. The implementation plans for all facilities shall include the following:

1. construction schedules for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features such as monitoring wells and liners. Time frames shall be specified in days, with day one being the date of standard permit issuance;

2. details on phased implementation if any proposed facility is to be constructed in phases; and

3. a plan for closing and upgrading existing operating areas if the application is for expansion of a facility or construction of a replacement facility.

E. Groundwater monitoring requirements shall be in accordance with LAC 33:VII.Chapter 8.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:1045 (June 2007), LR 34:613 (April 2008), LR 35:925 (May 2009). LR 37:3248 (November 2011).

## §711. Standards Governing Landfills (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures must be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed to collect and control at least the water volume resulting from a 24-hour/25-year storm event and /or the peak discharge from a 25-year storm event.

4. Facilities located in a 100-year flood plain shall not restrict the flow of a 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. Runoff from operating areas or areas that contain solid waste and have not yet received interim compacted cover or final cover shall be considered contaminated and shall not be allowed to mix with noncontaminated surface runoff.

6. A run-on control system shall be installed to prevent run-on during the peak discharge from a 25-year storm event and/or to collect and control at least the water volume resulting from a 24-hour/25-year storm event.

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Daily and Interim Cover Requirements

a. Cover material shall:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content;

iii. reduce fire-hazard potential;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide an aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

b. Silty or sandy clays applied a minimum of 6 inches thick at the end of each operating day are satisfactory for daily cover, and silty clays applied a minimum of 1 foot thick are satisfactory for interim cover.

c. Alternative daily cover, interim cover, or interim compacted cover materials may be approved by the administrative authority provided the standards of Subparagraph B.2.a of this Section are met. The administrative authority reserves the right to require testing to confirm acceptability. The administrative authority may waive the requirements for daily cover, for Type I landfills only, if the permit holder or applicant can demonstrate that the nature of the waste is such that daily cover is not necessary. Daily cover requirements may not be waived for Type II landfills.

d. Alternative daily cover, interim cover, and interim compacted cover materials submitted for approval shall be available on a regular basis and demonstrate reasonably consistent composition and performance characteristics.

e. Interim cover or interim compacted cover shall be applied on all operating areas of a facility that will not receive solid waste for a period longer than 60 days. Interim cover or interim compacted cover must be applied within 48 hours of the last receipt of solid waste in the operating area or as soon as weather permits. Facilities that provide interim cover or interim compacted cover shall also implement erosion control measures. Any delay in the application/completion of interim cover due to weather shall not exceed seven calendar days unless a written extension is issued by the Office of Environmental Compliance.

f. Daily and interim cover shall be applied and maintained in a condition that meets the purposes of Subparagraph B.2.a of this Section.

g. The source of daily and interim cover must be accessible regardless of weather.

h. The facility shall maintain a daily log which includes the following information:

i. specific area of daily and interim cover placement;

ii. source of cover material; and,

iii. depth of cover material applied.

3. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

4. Leachate Control, Collection, Treatment, and Removal Systems

a. Leachate shall not be managed by allowing the leachate to be absorbed in the waste, unless it is a part of leachate recirculation or other approved technology.

b. Infiltration of water into the waste shall be minimized by daily, interim, and final cover, as required by these regulations.

c. The impact of leachate on the environment shall be minimized by a leachate collection and removal system and a leachate treatment system designed to ensure positive removal and treatment of generated leachate.

d. Leachate removed shall be handled in such a manner that it does not adversely affect the environment.

e. Migration of leachate shall be prevented by liners or other barriers.

f. The following minimum standards apply to leachate collection and removal systems.

i. The leachate collection system shall be located above the primary liner.

ii. All leachate collection pipes shall be perforated, a minimum of 6 inches in diameter, and constructed of materials resistant to the leachate.

iii. Leachate cleanout risers or manholes shall be provided for each leachate collection line. The maximum length of leachate collection lines shall not exceed the capabilities of the cleanout device.

iv. A granular leachate collection drainage blanket, consisting of a natural or a synthetic material with permeability of $1x10^{-3}$ cm/sec or higher, shall be provided to trap fines and prevent waste from entering the drainage layer while allowing the passage of leachate. If natural material is used for the drainage blanket, the thickness of the material shall be at least 12 inches, unless otherwise approved by the administrative authority. If synthetic material is used, sufficient thickness of buffer material shall be placed over the synthetic material to provide protection for the liner system.

v. The flow path of leachate on the liner surface shall be no greater than 100 feet to the point of collection.

(For the purpose of determining this distance, the permit holder or applicant may assume that the leachate flow path is perpendicular to the leachate collection pipe along the cell floor.)

vi. The slope on the surface of the liner toward the leachate collection lines shall be a minimum of 2 percent based on post-settlement conditions. Settlements shall be calculated based on geotechnical testing performed on soil samples extracted from the site. Flatter slopes may be approved by the administrative authority if the slopes keep positive drainage and it is demonstrated that the slopes will not adversely affect the maximum required leachate head in accordance with Clause B.4.f.viii of this Subsection.

vii. The slope of all leachate collection pipes shall be a minimum of 1 percent based on post-settlement conditions. Settlements shall be calculated based on geotechnical testing performed on soil samples extracted from the site. Flatter slopes may be approved by the administrative authority if they keep positive drainage and it is demonstrated that they will not adversely affect the maximum required leachate head in accordance with Clause B.4.f.viii of this Subsection.

viii. The leachate head shall be maintained in a pumped-down condition such that not more than 1 foot of head shall exist above the lowest elevation of the leachate collection lines.

ix. The equipment used to remove leachate from the collection system shall be adequately sized to accommodate normal facility operations.

x. Trenches or swales shall be provided to protect the leachate collection pipes.

xi. The leachate collection lines shall be sloped down toward the perimeter of the unit. However, other designs may be approved depending on site-specific conditions.

xii. An adequate thickness of gravel shall be placed on all sides of the leachate pipes.

xiii. Gravel size shall be selected to ensure that it is larger than the perforations in the collection pipe.

xiv. The migration of fines into the tops of the trenches shall be minimized by a properly designed, graded soil filter or geotextile.

xv. Materials such as limestone and dolomite shall not be used in the leachate collection system. However, the administrative authority may allow alternate materials to be used in construction of the leachate collection system if the permit holder or applicant can demonstrate that the materials can provide equivalent or superior performance.

xvi. Leachate lines (and other engineering structures) shall not penetrate the liner, unless the permit holder or applicant can demonstrate that special or unusual circumstances warrant liner penetration.

xvii. An antiseep collar shall be placed around the leachate line that penetrates the liner. A minimum of 3 feet of recompacted clay or equivalent material shall be placed around the collar.

xviii. All leachate transfer (force-main) lines shall be pressure tested prior to their use.

xix. All control systems for pumps, valves, and meters shall be designed to be operated from the ground level.

g. Alternate leachate collection and removal system designs may be approved by the administrative authority if the applicant can demonstrate, using modeling methods acceptable to the administrative authority, that the alternate leachate collection and removal system would offer equivalent or greater groundwater protection than the protection offered in LAC 33:VII.711.B.4.f. The demonstration shall indicate the specific types of waste to be disposed and shall include all other relevant site-specific factors. If the administrative authority determines the proposed alternate leachate collection and removal system has not been demonstrated to offer equivalent or greater groundwater protection, the alternate design will be denied and the applicant will be required to follow the standards of Subparagraph B.4.f of this Subsection.

5. Liners

a. The permit holder or applicant shall provide and implement a quality-assurance/quality-control plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities shall have quality-assurance/quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a professional engineer, licensed in the state of Louisiana, with the appropriate expertise.

b. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

i. adequate support for the contents;

ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate collection or leak-detection system;

iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and

iv. maximum resistance to desiccation.

c. Units of landfills shall be lined along the sides and bottom with a liner system installed under the supervision of a professional engineer, licensed in the state of Louisiana and with the appropriate expertise, which consists of the following, in descending order:

i. a leachate collection system designed and constructed in accordance with Paragraph B.4 of this Section; and

ii. a composite liner that consists of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot recompacted clay

liner having a hydraulic conductivity no greater than $1x10^{-7}$ cm/sec (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.); or

iii. an alternative liner system that provides equivalent or greater groundwater protection at the site as compared to the composite liner design in Clause B.5.c.ii of this Section, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

d. Special design conditions may be required in areas where circumstances warrant such conditions, as determined by the administrative authority. These special design standards may include more protective or stringent standards.

6. Gas Collection/Treatment or Removal System

a. Each unit of the facility with a potential for methane gas production and migration shall be required to install a gas collection/treatment or removal system:

i. when the facility is required to install a gas collection/treatment or removal system under 40 CFR Part 60, Subpart WWW; or,

ii. when needed to limit methane gas to the lower-explosive limits at the facility boundary and to 25 percent of the lower explosive limits in facility buildings.

b. Sampling protocol, chain of custody, and test methods shall be established for all gas collection/treatment or removal systems.

7. Slope Stability Analysis

a. A slope stability analysis shall be conducted by a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering.

b. Slope stability analyses shall contain an evaluation of the slopes of cell excavations deeper than 10 feet, proposed final elevations, and critical intermediate conditions, when applicable. Both short-term and long-term analyses shall be performed.

c. A minimum safety factor of 1.5 shall be required for all slope stability analyses unless an alternate safety factor is approved by the administrative authority.

d. Verifications of landfill slopes shall include, at a minimum, analysis of critical surfaces passing through the waste mass, along the liner system interface(s), and through the foundation soils.

e. Soil parameters and conditions utilized in the slope stability analysis shall be based on in-situ geotechnical and hydrogeological data. Geotechnical testing shall be signed by a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering. Geotechnical testing shall be representative of the site conditions with respect to the number of samples and types of tests selected, and in accordance with LAC 33:VII.519.B.3.b. Waste parameters utilized in the analyses shall be justified.

f. The administrative authority may require deep soil borings and/or cone penetration tests (CPTs) to be performed in addition to the soil boring requirements of LAC 33:VII.803.A.2. The number of deep soil borings and/or cone penetration tests and their depths shall be sufficient to adequately represent the subsurface conditions for the slope stability analysis.

g. Slope stability analysis shall also be performed for vertical and lateral expansions, and for any expansion that includes an increase of steepness of the landfill slopes.

h. A report with the results of the slope stability analysis shall be prepared, clearly identifying the methods utilized. The report shall also include references and a summary of the data and parameters utilized, the location of the sections analyzed, a depiction of the slope geometry and critical surfaces, the minimum safety factor for each type of analysis, and the computer-generated print-outs.

C. Facility Administrative Procedures

1. The permit holder shall submit an annual certification of compliance, as required by LAC 33:VII.525.

2. Recordkeeping

a. The permit holder shall maintain all records specified in the application as necessary for the effective management of the facility and for preparing the required reports for the life of the facility and for a minimum of three years after final closure. These records shall be maintained on-site for a minimum of three years. These records may be retained in paper copy or in an electronic format. Electronically maintained records shall be a true and accurate copy of the records required to be maintained. Records older than three years may be kept at an off-site location provided they are readily available to the administrative authority for review upon request. All permit applications and addenda (including those pertaining to prior permits) shall be maintained with the on-site records.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application;

iv. permit modifications;

v. certified field notes for construction (may be stored at an off-site location with readily available access);

vi. operator training programs;

vii. daily log;

viii. quality-assurance/quality-control records;

ix. inspections by the permit holder or operator, including, but not limited to, inspections to detect incoming hazardous waste loads;

x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;

xi. records, including field notes, demonstrating that liners, leachate-control systems, and leak-detection and cover systems are constructed or installed in accordance with appropriate quality assurance procedures;

xii. records on the leachate volume and results of the leachate sampling, if applicable;

xiii. monitoring, testing, or analytical data;

xiv. any other applicable or required data deemed necessary by the administrative authority;

xv. records on groundwater sampling results;

xvi. post-closure monitoring reports; and

xvii. copies of all documents received from and submitted to the department.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility. All personnel involved in waste handling at the facility must be trained adequately in procedures to recognize and exclude receipt or disposal of hazardous wastes and PCB wastes.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste and TSCA-regulated PCB waste shall be strictly prohibited and prevented. Permit holders of Type II landfills must implement a program of random inspections of incoming loads to detect and prevent the disposal of hazardous waste or PCB waste and must keep records of these inspections. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning of solid waste shall not be practiced at Type I or II landfills.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. Infectious waste from hospitals or clinics may be deposited in Type I or II landfills only if it has been properly packaged and identified and is treated by a method approved by the Department of Health and Hospitals.

f. Grazing of domestic livestock shall not be allowed in the vicinity of active landfill units or units under closure or post closure.

g. Except as otherwise provided in this Subparagraph, liquid wastes shall not be disposed of in a landfill, and facilities that plan to accept liquid wastes shall provide a means for solidifying them and an appropriate quality-assurance/quality-control program. The only bulk or non-containerized liquid that may be placed in a landfill is residential waste (excluding septic waste), leachate and gas condensate that is derived from the landfill, and liquid from a leachate recirculation operation.

h. Residential, commercial, and other wastes deemed acceptable by the administrative authority on a site-specific basis may be disposed of in Type I and II landfills. A comprehensive quality-assurance/quality-control plan shall be provided for facilities receiving asbestos-containing waste and dewatered domestic wastewater treatment plant sludge.

i. No solid waste shall be deposited in standing water, and standing water in contact with waste shall be removed immediately.

j. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be disposed of or processed only in Type I or Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

k. Operating slopes within the landfill shall be maintained in a manner that provides for the proper compaction of waste and the application of cover as required by LAC 33:VII.711.D.3.b.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;

f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;

g. the methods that will be used to ensure that the leachate collection/treatment system is functioning as designed; and

h. the measuring protocol to be used and the frequency with which the depth of leachate within the collection system will be checked, as well as how the leachate will be removed and transported to the treatment facility.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements of this Subparagraph. Facilities subject to this Subparagraph that are also required to maintain a surface monitoring design plan under an effective 40 CFR Part 70 (Title V) operating permit shall comply with the monitoring requirements of the Title V operating permit. Compliance with the monitoring requirements under an effective Title V operating permit shall constitute compliance with the air monitoring requirements of this Section.

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

(a). The type and frequency of monitoring shall be determined based on the following factors:

(i). soil conditions;

(ii). hydrogeologic conditions surrounding the facility;

(iii). hydraulic conditions surrounding the facility; and

(iv). the locations of facility structures and property boundaries.

(b). The minimum frequency of monitoring shall be quarterly.

iii. If methane gas levels exceeding the limits specified in Clause D.3.a.ii of this Section are detected, the permit holder shall:

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923;

(b). within 30 days of detection, submit a remediation plan to the Office of Environmental Services for the methane gas releases. The plan shall describe the nature and extent of the problems and the proposed remedy and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

iv. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries.

v. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

vi. Odors shall be controlled by the best means practicable.

vii. Facilities shall ensure that the units do not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. Waste shall be deposited under facility supervision in the smallest practicable area, spread in layers, and compacted to approximately 2 feet thick or, if baled, stacked and daily cover applied.

c. Vector Control

i. Food or harborage shall be denied to rats, insects, and birds to the extent possible by using proper cover or other means acceptable on a site-specific basis. Where necessary, an approved pesticide shall be applied in accordance with applicable state and federal laws.

ii. A schedule of the type and frequency of vector control measures to be used shall be submitted to the Office of Environmental Services for approval in the operational plan.

d. Waste Characterization. The permit holder shall review and maintain the hazardous waste determination performed by the generator in accordance with LAC 33:V.1103 for all solid waste prior to acceptance. Every year thereafter, the permit holder shall require the generator to submit either a written certification that the waste being sent to the permit holder remains unchanged or a new waste characterization. All characterizations and certification records shall be maintained on-site for a period of three years.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Segregation of Wastes

a. White goods may be stored in a unit separate from other solid wastes and shall be removed every 30 days. The facility shall maintain a log of dates and volumes of white goods removed from the facility.

b. Tree limbs, leaves, clippings, and similar residues may be segregated and deposited in a permitted unit separate from other solid waste and shall be covered every 30 days,

or more often if necessary to control blowing and prevent rodent harborage.

c. Construction material and woodwastes may be deposited in a permitted unit separate from other solid wastes and covered every 30 days. This unit must meet the standards provided in LAC 33:VII.719 and 721.

6. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana state fire marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472, or other appropriate requirement from an applicable National Fire Protection Association standard. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician – basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

7. All permit holders shall demonstrate that the permitted landfill height has not been exceeded and shall document that information in the operating plan for the facility. Additionally, the method used to determine overall landfill height shall be documented. The landfill height shall be certified at least every five years by a professional land surveyor, licensed in the state of Louisiana, or a registered professional engineer, licensed in the state of Louisiana. This certification shall be included with the annual certification of compliance required by LAC 33:VII.525.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Preclosure Requirements

a. Final cover installation shall be initiated no later than 30 days after and shall be completed no later than 90 days after final grades are reached in each unit of a facility or the date of known final receipt of solid waste in the unit, whichever comes first. These deadlines may be extended by the administrative authority if necessary due to inclement weather or other circumstances to a maximum of 60 days for initiation and a maximum of 180 days for completion.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures must be provided if required as a result of the facility inspection.

f. Final compaction and grading shall be completed before capping.

g. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

3. Closure Requirements

a. Final Cover

i. Final cover shall be placed on top of the daily or intermediate cover that is used as the grading layer to provide a stable base for subsequent layers.

ii. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than $1x10^{-7}$ cm/sec overlain with an approved geomembrane covering the entire area. Areas that are steeper than 4:1 slope do not require geomembrane overlay.

iii. The Office of Environmental Services shall be notified after the final cover is applied.

iv. A minimum of 6 inches of topsoil shall be placed on top of the soil cover to support vegetative growth to prevent erosion.

v. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration by the administrative authority.

vi. Alternate final cover used in accordance with Clause E.3.a.v of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.a.ii and iv of this Section.

vii. The side slopes shall be no steeper than 3(H):1(V) and the top of the final cap shall be at minimum a 4 percent slope, for proper maintenance and drainage.

b. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

c. Landfills must be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to groundwaters or surface waters to the extent necessary to protect human health and the environment. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly.

d. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services approves closure. The length of the post-closure care period for landfills may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13, and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Post-Closure Care Length

a. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

b. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

c. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained as specified in Subparagraph F.3.a of this Section for 30 years after closure.

3. The post-closure care, except as otherwise specified above, must consist of at least the following:

a. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services on the integrity of the final cap (The Office of Environmental Compliance shall be notified of any problems and corrective action measures associated with the integrity and effectiveness of the final cover.);

b. maintaining and operating the leachate collection and removal system, until leachate is no longer generated or until the permit holder can demonstrate that the leachate no longer poses a threat to human health or the environment in accordance with LAC 33:I.Chapter 13;

c. maintaining and operating the gas collection/treatment or removal system and the gas-monitoring system; and

d. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:1047 (June 2007), LR 33:2145 (October 2007), LR 34:1901 (September 2008), LR 37:1564 (June 2011), LR 37:3248 (November 2011).

## §713. Standards Governing Surface Impoundments (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures must be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system must be designed to collect and control at least the water volume resulting from a 24-hour/25-year storm event and/or the peak discharge from a 25-year storm event. Adequate freeboard shall be provided to prevent over-topping by wave action.

4. Facilities located in a 100-year flood plain shall not restrict the flow of the 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. Surface run-on from outside the facility shall be diverted and prevented from entering the facility, with provisions for maintaining adequate freeboard above the requirements of Paragraph A.1 of this Section. A run-on control system shall be installed to prevent run-on during the peak discharge from a 25-year storm event and/or to collect and control at least the water volume resulting from a 24-hour/25-year storm event.

6. Existing surface impoundments, including existing ditches that receive solid waste, that are designed to collect or transport run-on (e.g., storm water) are not required to comply with any of the requirements of LAC 33:VII.713.A.3, 4, and 5. This Subsection does not relieve such facilities from compliance with the Louisiana water quality regulations (LAC 33:Part IX).

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures must be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

3. Liners

a. Liners for Type I and II proposed surface impoundments and for surface impoundments constructed subsequent to December 31, 1997, must comply with these standards. (Units of surface impoundments on which construction is completed prior to December 31, 1997, and that have received a temporary permit or standard permit prior to February 1, 1993, are not governed by these liner standards.)

b. The permit holder or applicant shall provide and implement a quality-assurance/quality-control plan for liner construction and maintenance that will ensure that liners are designed, constructed, installed, and maintained properly. All facilities shall have quality-assurance/quality-control plans for the excavations. All excavations and liners shall be inspected and certified by a professional engineer, licensed in the state of Louisiana, with the appropriate expertise.

c. The permit holder or applicant must demonstrate that the liner is placed upon a base that provides the following:

i. adequate support for the contents;

ii. maximum resistance to settlement of a magnitude sufficient to affect the integrity of the liner or the proper positioning of the leachate-collection or leak-detection system;

iii. maximum resistance to hydrostatic heave on the sides or bottom of the excavation; and

iv. maximum resistance to desiccation.

d. Units of surface impoundments shall be lined along the sides and bottom with a composite liner consisting of a geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3-foot

recompacted clay liner having a hydraulic conductivity no greater than $1x10^{-7}$ cm/sec that has been installed under the supervision of a professional engineer, licensed in the state of Louisiana and with the appropriate expertise. (If the geomembrane component is high-density polyethylene, then the geomembrane component must be at least 60-mil thick. Any geomembrane liner used must be compatible with the solid waste and leachate in the unit.) An alternative liner system that provides equivalent or greater groundwater protection at the site as compared to the composite liner, as demonstrated by generally accepted modeling techniques and based on factors specific to the site and to the solid wastes received, may be used. The burden of proof of adequacy of the alternate liner design shall be on the permit holder or applicant.

e. Special design conditions may be required in areas where circumstances warrant such conditions, as determined by the administrative authority. These special design standards may include more protective or stringent standards.

4. Gas Collection/Treatment or Removal System. The following standards apply to Type I and II surface impoundments not performing clean closure.

a. Each unit of the facility with a potential for methane gas production and migration shall be required to install a gas collection/treatment or removal system:

i. when the facility is required to install a gas collection/treatment or removal system under 40 CFR Part 60, Subpart WWW; or,

ii. when needed to limit methane gas to the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

b. Sampling protocol, chain of custody, and test methods shall be established for all gas collection/treatment or removal systems.

C. Facility Administrative Procedures

1. The permit holder shall submit an annual certification of compliance, as required by LAC 33:VII.525.

2. Recordkeeping

a. The permit holder shall maintain all records specified in the application as necessary for the effective management of the facility and for preparing the required reports for the life of the facility and for a minimum of three years after final closure. These records shall be maintained on-site for a minimum of three years. These records may be retained in paper copy or in an electronic format. Electronically maintained records shall be a true and accurate copy of the records required to be maintained. Records older than three years may be kept at an off-site location provided they are readily available to the administrative authority for review upon request. All permit applications and addenda (including those pertaining to prior permits) shall be maintained with the on-site records.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application;

iv. permit modifications;

v. certified field notes for construction (may be stored at an off-site location with readily available access);

vi. operator training programs;

vii. daily log;

viii. quality-assurance/quality-control records;

ix. inspections by the permit holder or operator;

x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;

xi. records, including field notes, demonstrating that liners and leak-detection and cover systems are constructed or installed in accordance with appropriate assurance procedures;

xii. monitoring, testing, or analytical data;

xiii. any other applicable or required data deemed necessary by the administrative authority;

xiv. records on groundwater sampling results;

xv. post-closure monitoring reports; and

xvi. copies of all documents received from or submitted to the department.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present

special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;

f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;

g. the methods that will be used to ensure that the designed capacity of the impoundment remains unchanged; and

h. the methods and inspection frequencies that will be used to establish that the levees and required freeboards are maintained.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce methane gas shall be subject to the air-monitoring requirements of this Subparagraph. Facilities subject to this Subparagraph who are also required to maintain a surface monitoring design plan under an effective 40 CFR Part 70 (Title V) operating permit shall comply with the monitoring requirements of the Title V operating permit. Compliance with the monitoring requirements under an effective Title V operating permit shall constitute compliance with the air monitoring requirements of this Section.

ii. The permit holder or applicant subject to air-monitoring requirements shall submit to the Office of Environmental Services a comprehensive air-monitoring plan that will limit methane gas levels to less than the lower-explosive limits at the facility boundary and to 25 percent of the lower-explosive limits in facility buildings.

(a). The type and frequency of monitoring shall be determined based on the following factors:

(i). soil conditions;

(ii). hydrogeologic conditions surrounding the facility;

(iii). hydraulic conditions surrounding the facility; and

(iv). the locations of the facility structures and property boundaries.

(b). The minimum frequency of monitoring shall be quarterly.

iii. If methane gas levels exceeding the limits specified in Clause D.3.a.ii of this Section are detected, the owner or operator shall:

(a). immediately take all necessary steps to ensure protection of human health and notify the Office of Environmental Compliance in the manner provided in LAC 33:I.3923; and

(b). within 30 days of detection, submit a remediation plan for the methane gas releases to the Office of Environmental Services. The plan shall describe the nature and extent of the problem and the proposed remedy, and shall include an implementation schedule. The plan shall be implemented within 60 days of detection.

iv. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries or when methane gas levels exceed the limit specified in Clause D.3.a.ii of this Section.

v. Records of inspections, surveys, and gas monitoring results shall be maintained at the facility.

vi. Odors shall be controlled by the best means practicable.

vii. Facilities shall ensure that the units not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. Surface impoundments shall be designed, constructed, maintained, and operated to prevent overtopping by overfilling, wave action, or action of storms.

c. Surface impoundments shall be inspected daily and after storms to detect evidence of deterioration of the dikes and levees, overtopping, malfunctions, or improper operation. Excessive vegetative growth that prevents proper access, inspection, or operation, or may provide a conduit for groundwater contamination shall be removed.

d. If a leak in an impoundment is found, notification shall be made in accordance with LAC 33:I.3915 in the case of an *emergency condition* as defined in LAC 33:I.3905, or in accordance with LAC 33:I.3923 in all other cases.

e. Waste Characterization. The permit holder shall review and maintain the hazardous waste determination performed by the generator in accordance with LAC 33:V.1103 for all solid waste prior to acceptance. Every year thereafter, the permit holder shall require the generator to submit either a written certification that the waste being sent to the permit holder remains unchanged or a new waste characterization. All characterizations and certification records shall be maintained on-site for a period of three years.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana state fire marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472, or other appropriate requirement from an applicable National Fire Protection Association standard. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician – basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Preclosure Requirements. The following standards apply to preclosure requirements for surface impoundments with on-site closure.

a. All facilities with a potential for gas production or migration shall install a gas collection/treatment or removal system, if one is not already present.

b. The runoff-diversion system shall be maintained and modified to prevent overflow of the facility to adjoining areas.

3. Closure Requirements

a. Surface liquids and sludges containing free liquids shall be dewatered or removed.

b. If a clean closure is achieved, there are no further post-closure requirements. The closure plan shall reflect a method for determining that all waste has been removed and such a plan shall, at a minimum, include the following:

i. identification (waste analysis) of the wastes that have entered the facility;

ii. selection of the indicator parameters to be sampled that are intrinsic to the wastes that have entered the facility in order to establish clean-closure criteria. Justification of the parameters selected shall be provided in the closure plan;

iii. sampling and analyses of the uncontaminated soils in the general area of the facility for a determination of background levels using the indicator parameters selected. A diagram showing the location of the area proposed for the background sampling, along with a description of the sampling and testing methods, shall be provided and the Office of Environmental Services shall be notified at least five days prior to any sampling event;

iv. a discussion of the sampling and analyses of the "clean" soils for the selected parameters after the waste and contaminated soils have been excavated. Documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, sampling locations, and sampling quality-assurance/quality-control programs) shall be provided;

v. a discussion of a comparison of the samples from the area of the excavated facility to the background samples, or applicable RECAP standards. Concentrations of the selected parameters of the bottom and side soil samples of the facility shall be equal to or less than the background samples or applicable RECAP non-industrial standards to meet clean closure criteria;

vi. analyses to be sent to the Office of Environmental Services confirming that clean closure has been achieved;

vii. identification of the facility to be used for the disposal of the excavated waste; and

viii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services before backfilling takes place. The administrative authority shall determine whether the facility has been closed properly.

c. If solid waste remains at the facility a final cover shall be required that meets the following standards.

i. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than $1x10^{-7}$ cm/sec overlain with an approved geomembrane covering the entire area. Areas that are steeper than 4:1 slope do not require geomembrane overlay. Final slopes shall not be less than four percent nor greater than 3(H):1(V). Alternate final slopes may be approved by the administrative authority. Geotechnical calculations prepared by a registered professional engineer shall be provided if required by the administrative authority for all facilities whose closure plans have not been approved as of November 20, 2011.

ii. The Office of Environmental Services shall be notified after the final cover is applied.

iii. A minimum of 6 inches of topsoil shall be placed on top of the soil cover to support vegetative growth to prevent erosion.

iv. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration and approval by administrative authority.

v. Alternate final cover used in accordance with Clause E.3.c.iv of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3.c.i and iii of this Section.

vi. The finished grade shall be sufficiently sloped for proper maintenance and drainage.

vii. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

d. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

e. Surface impoundments shall be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to groundwaters or surface waters to the extent necessary to protect human health and the environment. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly.

4. Alternate Closure Standards. The administrative authority may allow alternative closure under the following conditions.

a. If levels of contamination at the time of closure meet non-industrial standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of Subparagraph E.4.b and Subsection F of this Section shall not apply.

b. If levels of contamination at the time of closure meet industrial standards as specified in LAC 33:I.Chapter 13 and approval of the administrative authority is granted, the requirements of this Paragraph and Subsection F of this Section shall apply.

5. With the exception of those sites clean closed or closed in accordance with Subparagraph E.4.a of this Section, within 90 days after a closure is completed, the permit holder shall have entered in the mortgage and conveyance records of the parish in which the property is located, a notation stating that solid waste remains at the site and providing the indicator levels obtained during closure.

6. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services approves closure. The length of the post-closure care period for surface impoundments may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. The following standards regarding post-closure requirements apply to surface impoundments with on-site closure and alternative closure standards.

a. Post-Closure Care Length

i. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

ii. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

iii. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained as specified in Subparagraph F.2.b of this Section for 30 years after closure.

b. The post-closure care, except as otherwise specified above, must consist of at least the following:

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services on the integrity of the final cap;

ii. maintaining and operating, if applicable, the leak-detection system;

iii. maintaining and operating the gas collection/treatment or removal system and the gas-monitoring system; and

iv. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1053 (June 2007), LR 33:2146 (October 2007), LR 36:1241 (June 2010), LR 37:1564 (June 2011), LR 37:3250 (November 2011), repromulgated LR 37:3511 (December 2011).

## §715. Standards Governing Landfarms (Type I and II)

A. Surface Hydrology

1. Facilities located in a 100-year flood plain shall be filled to bring site elevation above flood levels, or perimeter levees or other measures shall be provided to maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not completed the post-closure period to adjoining areas during the peak discharge from a 25-year storm event and/or to collect and control at least the water volume resulting from a 24-hour/25-year storm event.

4. Facilities located in a 100-year flood plain shall not restrict the flow of a 100-year flood or significantly reduce the temporary water-storage capacity of the flood plain, and the design shall ensure that the flooding does not affect the integrity of the facility or result in the washout of solid waste so as to pose a threat to human health and the environment.

5. A run-on control system shall be installed to prevent run-on during the peak discharge from a 25-year storm event and/or to collect and control at least the water volume resulting from a 24-hour/25-year storm event.

6. Land slope shall be controlled to prevent erosion.

7. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

B. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

C. Facility Administrative Procedures

1.a. The permit holder shall submit an annual certification of compliance, as required by LAC 33:VII.525.

b. The following information shall be included in the annual certifications submitted to the Office of Environmental Services:

i. a copy of the semiannual soil waste mixtures tests and analyses of the results with conclusions, submitted semiannually, or more frequently if deemed necessary by the administrative authority. Test parameters shall consist of soil pH, total nitrogen, phosphorus, organic matter, salts (intrinsic to the waste), cumulative metals, and others as deemed necessary on a site- and waste-specific basis;

ii. annual reports of the analysis of all test results on the soils, land-use, and crop information, calculated amounts of waste applied per acre, total amounts of nitrogen applied per acre, and cumulative-metals loading. Annual reports shall be submitted to the Office of Environmental Services for a minimum of three years for Type II landfarms and 10 years for Type I landfarms after closure and shall contain analyses of all test results of the soils. The post-closure monitoring annual reporting may be reduced for certain types of landfarms if the permit holder demonstrates to the administrative authority's satisfaction that such a change is warranted.

2. Recordkeeping

a. The permit holder shall maintain all records specified in the application as necessary for the effective management of the facility and for preparing the required reports for the life of the facility and for a minimum of three years after final closure. These records shall be maintained on-site for a minimum of three years. These records may be retained in paper copy or in an electronic format. Electronically maintained records shall be a true and accurate copy of the records required to be maintained. Records older than three years may be kept at an off-site location provided they are readily available to the administrative authority for review upon request. All permit applications and addenda (including those pertaining to prior permits) shall be maintained with the on-site records.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application;

iv. permit modifications;

v. certified field notes for construction (may be stored at an off-site location with readily available access);

vi. operator training programs;

vii. daily log;

viii. quality-assurance/quality-control records;

ix. inspections by the permit holder or operator;

x. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable;

xi. monitoring, testing, or analytical data;

xii. any other applicable or required data deemed necessary by the administrative authority;

xiii. records on groundwater sampling results;

xiv. post-closure monitoring reports;

xv. copies of all documents received from or submitted to the department; and

xvi. reports specified in Subparagraph C.1.f of this Section.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be disposed of or processed only in Type I or Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

c. Grazing by animals whose products are consumed by humans shall be prevented.

d. Only waste that is demonstrated to be biodegradable will be considered for disposal in a landfarm.

e. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that incoming wastes are in conformance with the facility permit.

f. Solid waste with concentrations of polychlorinated biphenyls (PCBs) of 10 mg/kg or more shall not be disposed of in a landfarm.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the sampling protocol, chain of custody, and test methods that will be used in the gas-monitoring systems;

f. the methods that will be used to ensure that the grade and slope of both the on-site drainage system and the run-on diversion system are maintained and serve their intended functions;

g. a comprehensive operational management plan for the facility that indicates with calculations that the acreages and methods are adequate for treating the type and volume of wastes anticipated. The plan shall include contingencies for variations.

3. Facility Operational Standards

a. Air-Monitoring Standards

i. Facilities receiving waste with a potential to produce gases shall be subject to the air-monitoring requirements of this Subparagraph. Facilities subject to this Subparagraph who are also required to maintain a surface monitoring design plan under an effective 40 CFR Part 70 (Title V) operating permit shall comply with the monitoring requirements of the Title V operating permit. Compliance with the monitoring requirements under an effective Title V operating permit shall constitute compliance with the air monitoring requirements of this Section.

ii. The permit holder shall make prompt notification to the Office of Environmental Compliance in accordance with LAC 33:I.3923 when strong odors occur at facility boundaries.

iii. Records of inspections, surveys, and, if applicable, gas-monitoring results shall be maintained at the facility.

iv. Odors shall be controlled by the best means practicable.

v. Facilities shall ensure that the units do not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated in accordance with Section 110 of the Clean Air Act, as amended.

b. The maximum allowable lifetime-metals loading for soils at facilities shall be restricted to the limits specified in the following table. For organic waste, the application rate shall be controlled to ensure that the residual concentration in soils does not exceed the applicable standard of LAC 33:I.Chapter 13 (RECAP). The requirements may be modified by the department if the unit is constructed with an underdrain system that captures liquid infiltrating the treatment zone.

| Maximum Allowable Metal Loading (lb/acre)* | |
|---|---|
| Arsenic | 37 |
| Cadmium | 35 |
| Copper | 1300 |
| Lead | 270 |
| Mercury | 15 |
| Nickel | 370 |
| Selenium | 89 |
| Zinc | 2500 |
| *Other metals not listed may be subject to restrictions based upon the metal content of the waste. | |

c. Surface application of liquid waste shall not exceed 2 inches per week.

d. Soil in the zone of incorporation shall be monitored to assess the effectiveness of ongoing treatment, management needs, and soil integrity.

e. Nitrogen concentrations in the waste shall be within the limits deemed acceptable, as determined by plant-nitrogen uptake and soil and waste analyses (which shall indicate the movement of all forms of nitrogen). The potential for nitrogen to enter the groundwater shall be addressed.

f. Waste shall be applied to the land surface or incorporated into the soil within 3 feet of the surface.

g. A comprehensive quality-assurance/quality-control plan shall be provided to ensure that all incoming wastes are in conformance with the facility permit and these regulations.

h. Tests of soil/waste mixtures and analyses of the results, with conclusions, shall be conducted semiannually, or more frequently if deemed necessary by the administrative authority. Test parameters shall consist of soil pH, total nitrogen, phosphorus, salts intrinsic to waste, cumulative metals, organic matter, and others deemed necessary by the administrative authority.

i. The administrative authority may provide additional requirements necessary on a site-specific basis depending on waste type and method of application.

j. Landfarms that receive only domestic sewage sludge and septic tank pumpings shall do so in accordance with LAC 33:IX.7301.G.2.

k. Waste Characterization. The permit holder shall review and maintain the hazardous waste determination performed by the generator in accordance with LAC 33:V.1103 for all solid waste prior to acceptance. Every year thereafter, the permit holder shall require the generator to submit either a written certification that the waste being sent to the permit holder remains unchanged or a new waste characterization. All characterizations and certification

records shall be maintained on-site for a period of three years.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facility's operational needs.

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana state fire marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472, or other appropriate requirement from an applicable National Fire Protection Association standard. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician – basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

3. Closure Requirements. During the closure period the permit holder shall:

a. continue with all operations (including pH control) necessary to continue normal waste treatment within the treatment zone;

b. maintain the run-on control system;

c. maintain the runoff management system;

d. control wind dispersal of odors and/or waste; and

e. continue to comply with any prohibitions or conditions concerning growth of food-chain crops.

F. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services approves closure. The length of the post-closure care period for landfarms may be:

a. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.); or

b. increased by the administrative authority if the administrative authority determines that the lengthened

period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13.

2. Type I Landfarms. For facilities that receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under this Section for 10 years after closure. For facilities that did not receive waste on or after October 9, 1993, the permit holder shall continue to comply with any prohibitions or conditions under this Section for three years after closure.

3. Type II Landfarms

a. The permit holder shall continue to comply with any prohibitions or conditions under this Section for three years after closure.

b. Annual reports shall be submitted to the Office of Environmental Services for a period of three years after closure and shall contain results of analyses of all soil/waste.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1058 (June 2007), LR 33:2147 (October 2007), LR 35:1880 (September 2009), LR 37:1565 (June 2011), LR 37:3251 (November 2011), repromulgated LR 37:3511 (December 2011).

## Subchapter B. Solid Waste Processors

### §717. Standards Governing All Type I-A and II-A Solid Waste Processors

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type I-A and II-A solid waste processing and disposal facilities.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings shall be legible. Area master plans shall show:

a. the facility;

b. the road network;

c. major drainage systems;

d. drainage-flow patterns;

e. the location of the closest population centers;

f. if the facility processes or disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);

g. the location of the 100-year flood plain, based on the most recent data; and

h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

4. Facilities that process or dispose of putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used only by piston-type aircraft.

5. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

a. residential;

b. health-care facilities and schools;

c. agriculture;

d. industrial and manufacturing;

e. other commercial;

f. recreational; and

g. undeveloped.

6. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

7. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management

areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

8. Processing facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

9. A statement of the estimated population, the source of the estimation, and the population density within a 3-mile radius of the facility boundary is required of all facilities.

10. A wetlands demonstration, if applicable, is required in accordance with LAC 33:VII.709.A.8.

B. Facility Characteristics. The following facility characteristics are required for Type I-A and Type II-A solid waste processors and disposers.

1. Elements of the process or disposal system employed shall be provided, including, as applicable, property lines, original contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During nonoperating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of waste that can be received at the facility.

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. Buffer zones of not less than 300 feet shall be provided between the facility and the property line when the property line is adjacent to a structure currently being used as a church and having been used as a church prior to the submittal of a permit application. The requirement for a 300 feet buffer zone between the facility and a church shall not apply to any landfill or disposal facility existing prior to April 1, 2010, to any portion of such facility that has been closed or that has ceased operations, or to future expansions of the permitted disposal area of any such facility. A reduction in this requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 200 feet from the facility (or 300 feet for a church). The facility's owner or operator shall enter a copy of the notarized affidavit(s) in the mortgage and conveyance records of the parish or parishes in which the landowners' properties are located. Buffer zone requirements may be waived or modified by the administrative authority for areas of processing facilities that have been closed in accordance with these regulations and for existing facilities.

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally and in accordance with Paragraph G.5 of this Section.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All processing facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage); sources (whether the waste was generated in-state or out-of-state and, if it is industrial solid waste, where it was generated); and types of incoming waste (i.e., commercial, residential, infectious). All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

b. All processing facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

C. Surface Hydrology

1. Facilities located in a flood plain, wetlands, or areas historically subject to overflow from floods shall be filled to bring site elevation above flood levels or otherwise protected by measures approved on a site-specific basis. Perimeter levees or other measures shall provide and maintain adequate protection against a 100-year flood.

2. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed to collect and control at least the water volume resulting from a 24-hour/25-year storm event and/or the peak discharge from a 25-year storm event.

D. Facility Geology

1. Except as provided in Paragraph D.2 of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall

provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifers.

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.1 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.l of this Section shall be provided to the Office of Environmental Services.

3. Specific requirements for Type III facilities are found in LAC 33:VII.Chapter 8.

E. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be constructed adjacent to the facility in order to protect the facility against a 100-year flood.

b. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

F. Facility Administrative Procedures

1. The permit holder shall submit an annual certification of compliance, as required by LAC 33:VII.525.

2. Recordkeeping

a. The permit holder shall maintain all records specified in the application as necessary for the effective management of the facility and for preparing the required reports for the life of the facility and for a minimum of three years after final closure. These records shall be maintained on-site for a minimum of three years. These records may be retained in paper copy or in an electronic format. Electronically maintained records shall be a true and accurate copy of the records required to be maintained. Records older than three years may be kept at an off-site location provided they are readily available to the administrative authority for review upon request. All permit applications and addenda (including those pertaining to prior permits) shall be maintained with the on-site records.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application;

iv. permit modifications; and

v. operator certificates from the Board of Certification and Training for Solid Waste Disposal System Operators, if applicable.

3. Personnel

a. Facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Facilities receiving residential and commercial solid waste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

G. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. Industrial solid waste, incinerator ash, and nonhazardous petroleum-contaminated media and debris generated by underground storage tanks (UST) corrective action shall be processed only in Type I-A facilities. A comprehensive quality-assurance/quality-control plan shall be in place before the receipt of these wastes.

f. The receipt of mercury and/or cadmium-bearing batteries by Type I-A and II-A incinerator waste-handling facilities is strictly prohibited.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. Waste Characterization. The permit holder shall review and maintain the hazardous waste determination performed by the generator in accordance with LAC 33:V.1103 for all solid waste prior to acceptance. Every year thereafter, the permit holder shall require the generator to submit either a written certification that the waste being sent to the permit holder remains unchanged or a new waste characterization. All characterizations and certification records shall be maintained on-site for a period of three years.

b. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

c. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

d. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

e. Treatment facilities for washdown and other contaminated water shall be provided.

f. Facilities that employ incineration shall develop an ash-management plan that includes, at a minimum, testing, handling, transportation, and disposal of ash at a permitted facility.

g. Facilities shall have a plan for handling contaminated water.

h. Specific Operational Standards for Incinerator Waste-Handling Facilities

i. Handling. Ash shall be properly wetted and contained so as to ensure that there are no dust emissions during loading, transporting, or unloading.

ii. Testing. Testing procedures, schedules, and methods shall be submitted to the Office of Environmental Services for review and approval before disposal operations begin. Disposal of ash shall be only in a permitted Type I facility. Processing of ash shall be only in a permitted Type I-A facility.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana state fire marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph G.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472, or other appropriate requirement from an applicable National Fire Protection Association standard. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician – basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire

Protection Association standards, in accordance with LAC 33:VII.513.B.4.

H. Implementation Plans. The implementation plans for all facilities shall include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features; and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

I. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection is required to be documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal.

c. The permit holder shall verify that the underlying soils have not been contaminated due to the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.3-6 shall be provided to the administrative authority. The Office of Environmental Services shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:1061 (June 2007), LR 33:2148 (October 2007), LR 34:613 (April 2008), LR 35:926 (May 2009), LR 37:1566 (June 2011), LR 37:3252 (November 2011).

# Subchapter C. Minor Processing and Disposal Facilities

## §719. Standards Governing All Type III Processing and Disposal Facilities

A. Location Characteristics. The information on location characteristics listed in this Subsection is required and shall be provided for all Type III solid waste processing and disposal facilities.

1. Area master plans shall include location maps and/or engineering drawings. The scale of the maps and engineering drawings shall be legible. Area master plans shall show:

a. the facility;

b. the road network;

c. major drainage systems;

d. drainage-flow patterns;

e. the location of the closest population centers;

f. if the facility processes or disposes of putrescible solid waste, the location of any public-use airport used by turbojet aircraft or piston-type aircraft (if within a 5-mile radius);

g. the location of the 100-year flood plain based on the most recent data; and

h. other pertinent information.

2. Access to facilities by land or water transportation shall be by all-weather roads or waterways that can meet the demands of the facility and are designed to avoid, to the extent practicable, congestion, sharp turns, obstructions, or other hazards conducive to accidents. The surface roadways shall be adequate to withstand the weight of transportation vehicles.

3. Facilities that compost putrescible solid waste shall not be located within 10,000 feet of the end of any public-use airport runway used by turbojet aircraft or within 5,000 feet of the end of any public-use airport runway used by only piston-type aircraft.

4. Facilities located in, or within 1,000 feet of, swamps, marshes, wetlands, estuaries, wildlife-hatchery areas, habitat of endangered species, archaeological sites, historic sites, publicly-owned recreation areas, and similar critical environmental areas shall be isolated from such areas by effective barriers that eliminate probable adverse impacts from facility operations. The following information on environmental characteristics shall be provided:

a. a list of all known historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter, or as otherwise appropriate;

b. documentation from the appropriate state and federal agencies substantiating the historic sites, recreation areas, archaeological sites, designated wildlife-management areas, swamps, marshes, wetlands, habitats for endangered species, and other sensitive ecological areas within 1,000 feet of the facility perimeter; and

c. a description of the measures planned to protect the areas listed from the adverse impact of operation at the facility.

5. A letter shall be acquired from the appropriate agency or agencies regarding any facility receiving waste generated off-site, stating that the facility will not have a significant adverse impact on the traffic flow of area roadways and that the construction, maintenance, or proposed upgrading of such roads is adequate to withstand the weight of the vehicles.

6. A description shall be included of the total existing land use within 3 miles of the facility (by approximate percentage) including, but not limited to:

a. residential;

b. health-care facilities and schools;

c. agriculture;

d. industrial and manufacturing;

e. other commercial;

f. recreational; and

g. undeveloped.

7. A current aerial photograph, representative of the current land use, of a 1-mile radius surrounding the facility is required. The aerial photograph shall be of sufficient scale to depict all pertinent features.

8. Processing or disposal facilities may be subject to a comprehensive land-use or zoning plan established by local regulations or ordinances.

9. A statement of the estimated population, the source of the estimation, and the population density within a 3-mile radius of the facility boundary is required of all facilities.

10. A wetlands demonstration, if applicable is required, in accordance with LAC 33:VII.709.A.8.

B. Facility Characteristics. The following facility characteristics are required for all Type III solid waste facilities.

1. Elements of the process or disposal system employed shall be provided, including, as applicable, property lines, original contours (shown at not greater than 5-foot intervals), buildings, units of the facility, drainage, ditches, and roads.

2. Perimeter barriers and other control measures, such as security and signs, shall be provided as follows.

a. Facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.

b. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.

c. During nonoperating hours, each facility entry point shall be locked.

d. Facilities that receive wastes from off-site sources shall post readable signs that list the types of wastes that can be received at the facility.

3. Buffer Zones

a. Buffer zones of not less than 50 feet shall be provided between the facility and the property line. Buffer zones of not less than 200 feet shall be provided between the facility and the property line for any new facility. The requirement for a 200 feet buffer zone between the facility and the property line shall not apply to any facility existing on November 20, 2011, to any portion of such facility that has been closed or that has ceased operations, or to future expansions of the permitted disposal area of any such facility. Buffer zones of not less than 300 feet shall be provided between the facility and the property line when the property line is adjacent to a structure currently being used as a church and having been used as a church prior to the submittal of a permit application. The requirement for a 300 feet buffer zone between the facility and a church shall not apply to any landfill or disposal facility existing prior to April 1, 2010, to any portion of such facility that has been closed or that has ceased operations, or to future expansions of the permitted disposal area of any such facility. A reduction in this requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 50 feet from the facility (for facilities existing on November 20, 2011), less than 200 feet from the facility (for facilities constructed after November 20, 2011), or less than 300 feet from the facility (for facilities located less than 300 feet from a church). The facility's owner or operator shall enter a copy of the notarized affidavit(s) in the mortgage and conveyance records of the parish or parishes in which the landowners' properties are located. Buffer zone requirements may be waived or modified by the administrative authority for areas of woodwaste/construction/demolition-debris landfills that have been closed in accordance with these regulations and for existing facilities. Notwithstanding this Paragraph, Type III air curtain destructors and composting facilities that receive putrescible, residential, or commercial waste shall meet the buffer zone requirements in LAC 33:VII.717.B.3. In addition, air curtain destructors shall maintain at least a 1,000-foot buffer from any dwelling other than a dwelling or structure located on the property on which the burning is conducted (unless the appropriate notarized affidavit waivers are obtained).

b. No storage, processing, or disposal of solid waste shall occur within the buffer zone.

4. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care, or such services shall be provided internally.

a. A plan outlining facility operations and emergency procedures to be followed in case of accident, fire, explosion, or other emergencies shall be developed and filed with the Office of Environmental Services and with the local fire department and the closest hospital or clinic. The plans shall be updated annually or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph B.4 of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

5. Landscaping. All facilities, other than those that are located within the boundaries of a plant, industry, or business that generates the waste to be processed or disposed of, shall provide landscaping to improve the aesthetics of the facility.

6. Devices or Methods for Receiving and Monitoring Incoming Wastes

a. All processing or disposal facilities shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the waste was generated in-state or out-of-state), and types of incoming waste. All facilities shall also be equipped with a device or method to control entry of the waste and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, unauthorized, or unpermitted solid waste).

b. All processing or disposal facilities shall be equipped with a central control and recordkeeping system for tabulating the information required in Subparagraph B.6.a of this Section.

7. Discharges from operating units of all facilities shall be controlled and shall conform to applicable state and federal laws. Applications for applicable state and federal discharge permits shall be filed before a standard permit may be issued.

C. Surface Hydrology

1. Facilities located in a flood plain, wetlands, or areas historically subject to overflow from floods shall be filled to bring site elevation above flood levels or otherwise protected by measures approved on a site-specific basis. Perimeter levees or other measures shall provide and maintain adequate protection against a 100-year flood.

2. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the areas from adverse impacts of operations at the facility.

3. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the units of the facility that have not received final cover. The proposed system shall be designed to collect and control at least the water volume resulting from a 24-hour/25-year storm event and/or the peak discharge from a 25-year storm event.

4. Specific Surface Hydrology Standard for Type III Composting Facilities. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

D. Facility Geology

1. Except as provided in Paragraph D.2 of this Section, facilities shall have natural stable soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing stratum that would provide a conduit to such aquifers.

2. A design for surfacing natural soils that do not meet the requirement in Paragraph D.l of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph D.l of this Section shall be provided to the Office of Environmental Services.

3. Specific requirements for Type III facilities are found in LAC 33:VII.Chapter 8.

E. Implementation Plans. The implementation plans for all facilities shall include the following:

1. a construction schedule for existing facilities, which shall include beginning and ending time frames and time frames for the installation of all major features; and

2. details on phased implementation, if any proposed facility is to be constructed in phases.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1065 (June 2007), LR 33:2149 (October 2007), LR 34:613 (April 2008), LR 35:926 (May 2009), LR 37:3252 (November 2011), repromulgated LR 37:3511 (December 2011).

## §721. Standards Governing Construction and Demolition Debris and Woodwaste Landfills (Type III)

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Interim Cover Requirements

a. Cover material shall:

i. minimize vector-breeding areas and animal attraction by controlling:

(a). fly, mosquito, and other insect emergence and entrance;

(b). rodent burrowing for food and harborage; and

(c). bird and animal attraction;

ii. control leachate generation by:

(a). minimizing external-moisture infiltration;

(b). minimizing erosion; and

(c). utilizing materials with minimum free-liquid content;

iii. reduce fire-hazard potential;

iv. minimize blowing paper and litter;

v. reduce noxious odors by minimizing outward movement of methane and other gases;

vi. provide aesthetic appearance to the landfill operation; and

vii. allow accessibility regardless of weather.

b. Wastes shall be covered with silty clays applied a minimum of 12 inches thick. At a minimum, all wastes shall be covered within 30 days of disposal.

c. Wastes shall be deposited in the smallest practical area and compacted each day. Multiple working faces are prohibited.

d. The facility shall maintain a log including the following information:

i. date of cover material application;

ii. volume of cover material applied;

iii. description of the location where the cover material was applied;

iv. source of the cover material; and

v. depth of cover material applied.

3. Levee Construction

a. Levees or other protective measures approved by the administrative authority shall be provided in order to protect the facility against a 100-year flood.

b. If levees are required to protect the facility against a 100-year flood, such perimeter levees shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity and shall provide adequate protection against a 100-year flood.

B. Facility Administrative Procedures

1. The permit holder shall submit an annual certification of compliance, as required by LAC 33:VII.525.

2. Recordkeeping

a. The permit holder shall maintain all records specified in the application as necessary for the effective management of the facility and for preparing the required reports for the life of the facility and for a minimum of three years after final closure. These records shall be maintained on-site for a minimum of three years. These records may be retained in paper copy or in an electronic format. Electronically maintained records shall be a true and accurate copy of the records required to be maintained. Records older than three years may be kept at an off-site location provided they are readily available to the administrative authority for review upon request. All permit applications and addenda (including those pertaining to prior permits) shall be maintained with the on-site records.

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application;

iv. permit modifications; and

v. a log documenting the dates of cover application and the volume of cover applied.

3. Personnel

a. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Type III facilities receiving construction and demolition debris and woodwaste shall have the numbers and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators. The requirements of this Subparagraph are not applicable to facilities meeting the criteria of LAC 33:VII.305.A.4.

C. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

e. The following types of waste may be disposed of:

i. *construction/demolition debris*, as defined in LAC 33:VII.115;

ii. *woodwaste*, as defined in LAC 33:VII.115; and

iii. *yard trash*, as defined in LAC 33:VII.115.

f. The disposal of liquid waste, infectious waste, residential waste, industrial waste, commercial waste, RACM, and putrescible waste shall be strictly prohibited and prevented.

g. No solid waste shall be deposited in standing water, and standing water in contact with waste shall be removed immediately.

h. Operating slopes within the landfill shall be maintained in a manner that provides for the proper compaction of waste and the application of cover material as required by LAC 33:VII.721.A.2.b and c.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing or disposal operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.);

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented;

e. the side slope, which shall be no steeper than 3(H):1(V);

f. the run-on/runoff-diversion system, which shall be maintained to ensure proper operation of the drainage system; and

g. a quality-assurance/quality-control plan for the management of non-RACM waste, which shall include, at a minimum, detailed procedures involved in transportation, disposal, and monitoring of the waste.

3. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

4. Segregation of Wastes. Waste determined to be unacceptable at a woodwaste and construction/demolition-debris landfill shall be removed from the facility at least every seven days. Storage of this waste shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility.

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana state fire marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472, or other appropriate requirement from an applicable National Fire Protection Association standard. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician – basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

6. All permit holders shall demonstrate that the permitted landfill height has not been exceeded and shall document that information in the operating plan for the facility. Additionally, the method used to determine overall landfill height shall be documented. The landfill height shall be certified at least every five years by a professional land surveyor, licensed in the state of Louisiana, or a registered professional engineer, licensed in the state of Louisiana. This certification shall be included with the annual certification of compliance required by LAC 33:VII.525.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Preclosure Requirements

a. Final cover shall be applied within 30 days after final grades are reached in each unit of a facility. This deadline may be extended by the administrative authority if necessary due to inclement weather or other circumstances.

b. Standing water shall be solidified or removed.

c. The runoff-diversion system shall be maintained until the final cover is installed.

d. The runoff-diversion system shall be maintained and modified to prevent overflow of the landfill to adjoining areas.

e. Insect and rodent inspection is required to be documented before installation of final cover, and extermination measures shall be provided, if required as a result of the facility inspection.

f. Final compaction and grading shall be completed before capping.

3. Closure Requirements

a. Final Cover

i. Final cover shall consist of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth; however, other covers that provide a more practical answer and satisfy the purposes of minimizing fire hazards, odors, vector food and harborage, and infiltration of precipitation, as well as discouraging scavenging and limiting erosion, may be submitted to the Office of Environmental Services for approval.

ii. The side slope shall be no steeper than 3(H):1(V) and shall have a minimum of a 4 percent slope on the top of the final cap, unless it can be demonstrated that a lesser slope is sufficient for proper drainage following the post-settlement.

iii. The Office of Environmental Services shall be notified prior to planting a ground cover, and the permit holder shall notify the Office of Environmental Services once the ground cover is established.

iv. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly. An engineering certification verifying that the facility meets the final cover requirements shall be prepared under the supervision of a professional engineer licensed in the state of Louisiana. This certification shall be submitted to the Office of Environmental Services for approval.

v. A combination of clay and synthetic material approved by the administrative authority may also be used as final cover.

b. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

c. The permit holder shall update the parish mortgage and conveyance records by recording the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name and address of the person with knowledge of the contents of the facility. An example of the form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services with a true copy of the document filed and certified by the parish clerk of court.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority may release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

E. Facility Post-Closure Requirements

1. The post-closure period begins when the Office of Environmental Services approves closure. The time frame of post-closure care may be lengthened, if necessary, to protect human health or the environment in accordance with LAC 33:I.Chapter 13.

2. The integrity of the grade and cap shall be maintained for no less than three years after the date of the administrative authority's approval of the closure of the facility. The Office of Environmental Services shall be notified of any problems and corrective action measures

associated with the integrity and effectiveness of the final cover.

3. Annual reports concerning the integrity of the cap shall be submitted to the Office of Environmental Services for a period of three years after closure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1067 (June 2007), LR 33:2149 (October 2007), LR 34:1901 (September 2008), LR 37:1566 (June 2011), LR 37:3253 (November 2011).

## §723. Standards Governing Composting Facilities

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

b. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

3. Leachate Management

a. Leachate produced in the composting process shall be collected and treated or disposed of at a permitted facility.

b. Leachate may also be reused in the composting process as a source of moisture.

B. Surface Hydrology. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.

C. Facility Administrative Procedures

1. The permit holder shall submit an annual certification of compliance, as required by LAC 33:VII.525.

2. Recordkeeping

a. The permit holder shall maintain all records specified in the application as necessary for the effective management of the facility and for preparing the required reports for the life of the facility and for a minimum of three years after final closure. These records shall be maintained on-site for a minimum of three years. These records may be retained in paper copy or in an electronic format. Electronically maintained records shall be a true and accurate copy of the records required to be maintained. Records older than three years may be kept at an off-site location provided they are readily available to the administrative authority for review upon request. All permit applications and addenda (including those pertaining to prior permits) shall be maintained with the on-site records.

b. The permit holder shall maintain records of transporters transporting waste for processing at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application; and

iv. permit modifications.

3. Personnel

a. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

b. Type III facilities receiving solid waste for composting shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

D. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present special handling problems may be excluded by the administrative authority.

b. The following types of wastes may be processed:

i. *yard trash* and *woodwaste*, as defined in LAC 33:VII.115;

ii. *manure*, as defined in LAC 33:VII.115;

iii. *residential* or *commercial solid waste*, as defined in LAC 33:VII.115;

iv. other materials deemed acceptable by the administrative authority.

c. The processing of infectious waste and asbestos waste shall be strictly prohibited and prevented.

d. No solid waste shall be deposited in standing water.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. The operation of composting facilities shall be by methods that result in the aerobic, biochemical decomposition of the organic material received.

b. The facility shall be designed and operated to control vectors, odors, dust, and litter.

c. The construction and turning frequency (if turning is necessary) of a composting facility shall be sufficient to maintain aerobic conditions and to produce a compost product in a time frame that is consistent with the level of technology employed and acceptable to the administrative authority.

d. In-vessel composting shall be conducted in accordance with the manufacturer's specifications and these regulations.

e. The following special requirements apply to facilities handling residential or commercial waste.

i. If the compost is to be used exclusively for application to non-food-chain cropland, the criteria for a process to significantly reduce pathogens (LAC 33:VII.3007.Appendix D.1) shall be met. Otherwise, the facility shall meet the criteria for the processes to further reduce pathogens and for vector attraction reduction (LAC 33:VII.3007.Appendix D.2 and 3009.Appendix E).

ii. The facility shall include the following components:

(a). a receiving area, mixing area, curing area, compost storage area, drying and screening areas, and truck wash area located on surfaces capable of preventing groundwater contamination and resistant to rutting caused by vehicular traffic (Periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated.);

(b). a runoff collection system;

(c). a leachate collection system; and

(d). on-site/off-site treatment systems.

f. The following parameters are to be monitored and recorded during the operation in the time frame specified below (The samples taken for the parameters listed below shall be representative of the compost unit.):

i. temperature, daily;

ii. process odors, daily;

iii. blower operation, daily; and

iv. other parameters as deemed appropriate by the administrative authority.

g. Compost shall be classified based on the type of waste processed, compost maturity, particle size, and organic matter. The following characteristics shall be used.

i. Compost Maturity

(a). *Fresh Organic Matter*—raw material before undergoing decomposition (or at beginning of process).

(b). *Fresh Compost*—organic matter that has been through the thermophilic stage and has undergone partial decomposition.

(c). *Semimature Compost*—compost material that is at the mesophilic stage.

(d). *Mature Compost*—a highly stabilized product that results from exposing compost to a prolonged period of humidification and mineralization, beyond the stage of maturity. *Mature compost* shall have been cured for at least 60 days after the mesophilic stage is complete. Minimum starting moisture content for curing semimature compost shall be above 45 percent (by weight) and shall be raised to this value if necessary.

(e). A plot of time versus temperature (to indicate that the temperature of the compost has stabilized over a period of time) or other acceptable methods may be used to determine the level of maturity of compost as defined in Subclauses D.3.g.i.(b)-(d) of this Section.

ii. Particle Size. Particle size shall be determined by using the screen size, listed in Subclauses D.3.g.ii.(a)-(c) of this Section, that the compost passed through. Organic matter content shall be determined by measuring the volatile solids content using the Environmental Protection Agency's (EPA's) approved methods.

(a). *Fine*: < 12 mm and organic matter > 25 percent.

(b). *Medium*: < 15 mm and organic matter > 30 percent.

(c). *Coarse*: < 30 mm and organic matter > 35 percent.

iii. Moisture Content. In the finished compost, the moisture content shall not exceed 55 percent (by weight). The moisture content shall be determined by using EPA's approved methods.

iv. Concentration Levels. The concentration level of finished compost shall be as shown in the following table.

| Metal Concentration Levels of Finished Compost (shown in mg/kg in dry weight) | | |
|---|---|---|
| **Parameter** | **Category I** | **Category II** |
| Arsenic | <41 | 41-75 |
| Cadmium | <39 | 39-85 |
| Copper | <1500 | 1500-4300 |
| Lead | <300 | 300-840 |
| Mercury | <17 | 17-57 |
| Nickel | <420 | 420 |
| Selenium | <100 | 100 |
| Zinc | <2800 | 2800-7500 |

h. Finished Compost

i. The finished compost shall be sufficiently stable that it can be stored or applied to land without causing a health hazard or a detriment or nuisance to the environment as determined by the administrative authority.

ii. All distributed compost shall be accompanied with a label or leaflet that indicates, at a minimum, the type of waste from which the compost was derived, any restriction on the use of the product, and recommended application rates.

iii. Compost derived from residential or commercial waste shall meet the criteria of the processes to further reduce pathogens (LAC 33:VII.3007.Appendix D.2) or the process to significantly reduce pathogens (LAC 33:VII.3007.Appendix D.1) as provided in Clause D.3.e.i of this Section. Such compost shall not be offered for sale to or otherwise distributed to the general public unless it meets the criteria of the processes to further reduce pathogens and for vector attraction reduction (LAC 33:VII.3007.Appendix D.2 and 3009.Appendix E).

iv. Any compost made from solid waste that cannot be used pursuant to these regulations shall be reprocessed or disposed of in an approved solid waste facility.

v. Waste received at a composting facility shall be used as compost, sold as compost, or disposed of at a permitted disposal facility within 36 months after receipt.

vi. The sampling and testing methods shall be EPA's approved methods.

vii. Compost produced outside of the state of Louisiana and used or sold for use within the state shall comply with the requirements of these regulations.

viii. Classes of Finished Compost

(a). *Class M1*—compost that is made only from manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations of Category 1 of Clause D.3.g.iv of this Section. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(b). *Class M2*—compost that is made only from manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations of Category 2 (but not of Category 1) of Clause D.3.g.iv of this Section. This compost shall be restricted to use with non-food-chain crops.

(c). *Class S1*—compost that is made from solid waste other than only manure or manure with yard trash and/or woodwaste, which is mature, is fine, and meets the metals concentrations in Category 1 of Clause D.3.g.iv of this Section. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(d). *Class S2*—compost that is made from solid waste other than only manure or manure with yard trash and/or woodwaste, which is mature or semimature, is fine or medium, and meets the metals concentrations in Category 1 or Category 2 of Clause D.3.g.iv of this Section, but does not meet the requirements of Class S1 compost. This compost shall be restricted to use with non-food-chain crops and shall not be used in areas where public contact is likely, such as parks or recreation areas.

(e). *Class YW*—compost that is made only from yard trash and/or woodwaste, which is mature or semimature, and is fine or medium. This compost shall have unrestricted distribution except as provided in Clause D.3.e.i of this Section.

(f). All classes of compost shall be used in accordance with the maximum allowable metal loading limits and annual allowable metal loading limits provided in the following tables and are subject to the restrictions provided in Clause D.3.e.i of this Section. The following metal loading limits shall apply provided specific plant nitrogen uptake and other limitations are met.

| Maximum Allowable Metal Loading Limits (lbs/acre) | |
|---|---|
| Arsenic | 37 |
| Cadmium | 35 |
| Copper | 1300 |
| Lead | 270 |
| Mercury | 15 |
| Nickel | 370 |
| Selenium | 89 |
| Zinc | 2500 |

| Annual Allowable Metal Loading Limits (lbs/acre) | |
|---|---|
| Arsenic | 1.85 |
| Cadmium | 1.75 |
| Copper | 65 |
| Lead | 135 |
| Mercury | 0.75 |
| Nickel | 18.5 |
| Selenium | 4.45 |
| Zinc | 125 |

ix. Testing of Finished Compost. Composite samples of batches produced at compost facilities shall be analyzed, in accordance with SW-846, at intervals of every three months (see *liquid waste*, as defined in LAC 33:VII.115) for the following parameters:

(a). moisture;

(b). total nitrogen;

(c). total phosphorus;

(d). total potassium;

(e). pH;

(f). cadmium;

(g). copper;

(h). lead;

(i). nickel;

(j). zinc;

(k). arsenic;

(l). mercury;

(m). selenium; and

(n). appropriate parameters for pathogens and vector attraction reduction analysis.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Segregation of Waste

a. Composting facilities involving residential and commercial solid waste shall provide a waste-segregation plan and a recyclables separation program that shall be instituted prior to composting operations.

b. Wastes not intended for composting shall be removed from the facility to a permitted facility at least every seven days. Storage of wastes not intended for composting shall be in a closed container that prevents vector and odor problems. The facility shall maintain a log of dates and volumes of waste removed from the facility due to its inability to be composted.

c. Recyclable waste removed from the waste stream shall be stored in a manner that prevents vector and odor problems and shall be removed from the facility at least every 90 days. The facility shall maintain a log of dates and volumes of recycled waste removed from the facility.

6. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana state fire marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph D.6.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472, or other appropriate requirement from an applicable National Fire Protection Association standard. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician – basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

E. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection shall be performed and documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal.

c. The permit holder shall verify that the underlying soils have not been contaminated in the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services. The Office of Environmental Services shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

4. Financial assurance shall be adequate to cover removal of the maximum inventory at any given time, including (if part of closure) the cost of dismantling and removal of materials and buildings, etc.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:1069 (June 2007), LR 33:2150 (October 2007), LR 37:1567 (June 2011), LR 37:3254 (November 2011).

## §725. Standards Governing Separation and Woodwaste Processing Facilities (Type III)

A. Plans and Specifications

1. Facility plans, specifications, and operations represented and described in the permit application or permit modifications for all facilities shall be prepared under the supervision of and certified by a professional engineer, licensed in the state of Louisiana.

2. Levee Construction

a. The perimeter levees of all facilities shall be engineered to minimize wind and water erosion and shall have a grass cover or other protective cover to preserve structural integrity.

b. Levees or other protective measures shall be provided in order to protect the facility against a 100-year flood.

B. Facility Administrative Procedures

1. The permit holder shall submit an annual certification of compliance, as required by LAC 33:VII.525.

2. Recordkeeping

a. The permit holder shall maintain all records specified in the application as necessary for the effective management of the facility and for preparing the required reports for the life of the facility and for a minimum of three years after final closure. These records shall be maintained on-site for a minimum of three years. These records may be retained in paper copy or in an electronic format. Electronically maintained records shall be a true and accurate copy of the records required to be maintained. Records older than three years may be kept at an off-site location provided they are readily available to the administrative authority for review upon request. All permit applications and addenda (including those pertaining to prior permits) shall be maintained with the on-site records.

b. The permit holder shall maintain records of transporters transporting waste for processing at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the Office of Environmental Services.

c. Records kept on site for all facilities shall include, but not be limited to:

i. copies of the applicable Louisiana solid waste rules and regulations;

ii. the permit;

iii. the permit application; and

iv. permit modifications.

3. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

4. Type III facilities receiving solid waste for processing shall have the number and levels of certified operators employed at the facility as required by the department in accordance with LAC 46:XXIII. Operator certificates shall be prominently displayed at the facility. The Board of Certification and Training for Solid Waste Disposal System Operators and the Office of Environmental Services shall be notified within 30 days of any changes in the employment status of certified operators.

C. Facility Operations

1. Facility Limitations

a. The receipt of hazardous waste shall be strictly prohibited and prevented. Any other wastes that present

special handling or disposal problems may be excluded by the administrative authority.

b. Open burning shall not be practiced unless authorization is first obtained from the administrative authority and any other applicable federal, state, and local authorities.

c. Salvaging shall be prevented unless approved by the administrative authority.

d. Scavenging shall be prevented.

2. Facility Operational Plans. Operational plans shall be provided that describe in specific detail how the waste will be managed during all phases of processing operations. At a minimum, the plan shall address:

a. the route the waste will follow after receipt;

b. the sequence in which the waste will be processed or disposed of within a unit;

c. the method and operational changes that will be used during wet weather (Particular attention shall be given to maintenance of access roads and to water management.); and

d. the recordkeeping procedures to be employed to ensure that all pertinent activities are properly documented.

3. Facility Operational Standards

a. All containers shall provide containment of the wastes and thereby control litter, odor, and other pollution of adjoining areas.

b. Provisions shall be made for at least daily cleanup of the facility, including equipment and waste-handling areas.

c. No solid waste shall be stored long enough to cause a nuisance, health hazard, or detriment to the environment.

d. Treatment facilities for washdown and other contaminated water shall be provided.

e. Facilities shall have a plan for handling contaminated water.

f. Applications for air curtain destructors shall provide the specifications of the type of air curtain unit proposed and additionally adhere to the following requirements.

i. If the air curtain destructor is a trench burner, the approximate dimensions of the trench (pit) shall be specified.

ii. Ash shall be removed on a regular basis so as to not cause a hazard or nuisance.

iii. Water shall be applied to the ash before removal.

iv. Excessive smoldering of woodwaste shall be prevented during non-operating hours.

v. Only untreated *woodwaste* and *yard trash*, as defined in LAC 33:VII.115, may be accepted. No burning of treated woodwaste or other solid waste is permitted.

vi. All emissions and burning operations are subject to the Louisiana air quality regulations (LAC 33:Part.III). These regulations and any other permit requirements shall be followed.

vii. Only clean fuels (diesel fuel No. 2, etc.) shall be used to light refuse.

viii. Burning shall be conducted between the hours of 8 a.m. and 5 p.m.

ix. Incoming woodwaste shall be inspected at the gate before unloading. If any waste other than woodwaste is detected, the entire load shall be rejected. All rejected loads shall be recorded in the daily log.

x. Storage of woodwaste and yard trash shall be in a designated area.

xi. The volume of woodwaste and yard trash stored on-site shall not exceed 10 days of the processing capacity of the air curtain destructor unless otherwise approved by the administrative authority.

xii. No waste or combustible material shall be stored within 50 feet of the air curtain destructor.

4. Sufficient equipment shall be provided and maintained at all facilities to meet the facilities' operational needs.

5. Emergency Response Plan

a. If required under LAC 33:VII.513, an emergency response plan shall be filed with the closest fire department, emergency medical services (EMS) agency, hospital or clinic, and the Office of Environmental Services, after approval by the Louisiana state fire marshal. Any significant revision of the plan shall be approved and filed in the same manner. The plans shall be reviewed by the permit holder annually, and updated if necessary, or when implementation demonstrates that a revision is needed.

b. Training sessions concerning the procedures outlined in Subparagraph C.5.a of this Section shall be conducted annually for all employees working at the facility. A copy of the training program shall be filed with the Office of Environmental Services.

c. Requirements for Emergency Response Plan

i. The emergency response plan shall describe the actions facility personnel must take in response to accident, fire, explosion, or other emergencies.

ii. If the owner or operator has already prepared an emergency response plan or contingency plan, he need only amend that plan to incorporate solid waste management provisions that are sufficient to comply with these requirements as applicable.

iii. The plan must designate those fire departments or mutual aid societies, emergency medical services

agencies, and hospitals with which the facility will coordinate emergency services.

iv. For fire departments or mutual aid societies, the applicable response requirement shall be that of operations level responder from the National Fire Protection Association, Standard 472, or other appropriate requirement from an applicable National Fire Protection Association standard. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

v. For emergency medical services (EMS), the response requirement shall be that of emergency medical technician – basic, or equivalent. At least one person trained to this level shall respond in any incident requiring activation of EMS.

vi. The plan must include a list of all emergency equipment (where required) at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

vii. The plan shall include an evacuation plan for facility personnel. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

viii. The plan shall include emergency notification procedures required in LAC 33:I.Chapter 39.

d. The provisions of this Paragraph shall not apply if the applicant demonstrates that he meets the response requirements of the applicable sections of the National Fire Protection Association standards, in accordance with LAC 33:VII.513.B.4.

D. Facility Closure Requirements

1. Notification of Intent to Close a Facility. All permit holders shall notify the Office of Environmental Services in writing at least 90 days before closure or intent to close, seal, or abandon any individual units within a facility and shall provide the following information:

a. the date of the planned closure;

b. changes, if any, requested in the approved closure plan; and

c. the closure schedule and estimated cost.

2. Closure Requirements

a. Insect and rodent inspection shall be performed and documented before closure, and extermination measures shall be provided if required as a result of the final inspection.

b. All remaining waste shall be removed to a permitted facility for disposal or properly disposed of on-site as provided for in LAC 33:VII.305.A.8. If waste is removed from the facility, documentation shall be provided that the material was properly disposed of in a permitted facility.

c. The permit holder shall verify that the underlying soils have not been contaminated from the operation of the facility. If contamination exists, a remediation/removal program developed to meet the standards of LAC 33:VII.713.E.4 and 6 shall be provided to the Office of Environmental Services. The Office of Environmental Compliance shall conduct a closure inspection to verify that the facility was closed in accordance with the approved closure plan.

3. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2026 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2496 (October 2005), LR 33:1073 (June 2007), LR 33:2151 (October 2007), LR 37:1567 (June 2011), LR 37:3254 (November 2011).

# Chapter 8. Standards Governing General Facility Geology, Subsurface Characterization, and Facility Groundwater Monitoring for Type I, I-A, II, II-A, and III Facilities

## §801. General Facility Geology

A. The following standards regarding facility geology are applicable to all Type I, Type I-A, Type II, Type II-A, and Type III facilities.

1. The subsurface soils and groundwater conditions at facilities shall be characterized by a geologist, or a professional engineer licensed in the state of Louisiana with expertise in geotechnical engineering and hydrogeology. Both field boring logs and laboratory results shall be included as part of the permit application.

2. Except as provided in Paragraph A.3 of this Section, facilities shall have natural soils of low permeability for the area occupied by the solid waste facility, including vehicle parking and turnaround areas, that shall provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to an underlying sand or other permeable stratum that would provide a conduit to such aquifers.

3. A design for surfacing natural soils that do not meet the requirement in Paragraph A.2 of this Section shall be prepared and installed under the supervision of a professional engineer, licensed in the state of Louisiana, with expertise in geotechnical engineering and hydrogeology. Written certification by the engineer that the surface satisfies the requirements of Paragraph A.2 of this Section shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1075 (June 2007).

## §803. Subsurface Characterization

A. Boring Requirements

1. Boring Requirements Applicable to Type I, II, and III Facilities

a. Borings shall be installed and plugged and abandoned in accordance with the standards in this Chapter, as well as the guidelines established in the latest versions of the LDEQ's and Louisiana Department of Transportation and Development's (LDOTD's) *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 56. The administrative authority may approve other forms of geological investigation for Type III facilities, such as hand-augered borings, test pits, excavations, etc., provided that subsurface conditions are characterized by an individual who meets the requirements in LAC 33:VII.801.A, and any holes, test pits, etc., are properly plugged and abandoned.

b. Boring logs shall be submitted for each borehole, including boreholes for monitoring wells and piezometers, and shall include information for boring logs established in the latest versions of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook* and the LDOTD's Water Well Rules, Regulations, and Standards in LAC 56, including the ground surface elevation with respect to NGVD, lithology and the intervals that were cored continuously, and the depth of first encountered groundwater.

c. If the ground surface elevation has changed in any permitted area due to construction or other activities at the facility, than the affected borings shall be re-surveyed to reflect the current ground surface elevation.

d. A plan-view map shall be provided that shows existing topographic contours and locations of all borings, monitoring wells, and piezometers with respect to the facility.

e. A detailed plan-view drawing shall be provided that shows the proposed elevations of the base of units prior to installation of the liner system and boring locations.

2. Requirements Applicable to Type I and Type II Facilities

a. Geotechnical borehole spacing shall be no greater than 450 feet (minimum of four borings required) except for Type II landfarms that require a sufficient spacing between borings to adequately characterize the subsurface soils and groundwater conditions for the facility.

b. Existing permitted facilities that are planning a lateral and/or vertical expansion or changing the permitted lowest point of excavation within the permitted footprint may submit a work plan to the Office of Environmental Services to demonstrate that an alternative to the geotechnical borehole minimum spacing requirements set forth in Subparagraph A.2.a of this Section will achieve adequate characterization of the subsurface soils and groundwater conditions for the facility. The proposed alternative method shall include a demonstration that the subsurface soils and groundwater conditions have been adequately characterized or shall propose additional actions necessary to achieve adequate characterization. If the department concurs that adequate characterization has been performed, the spacing requirements of Subparagraph A.2.a of this Section may be waived.

c. The elevation (NGVD) of the lowest point of excavation shall be provided.

d. All boreholes shall extend to a depth of at least 30 feet below the elevation (NGVD) of the lowest point of excavation (or the lowest point of the zone of incorporation, for landfarms). At least 10 percent of the borings (minimum of three borings) shall extend to 100 feet below grade level to characterize the shallow geology.

e. All borings shall be continuously sampled to at least 30 feet below the elevation (NGVD) of the lowest point of excavation (or lowest point of the zone of incorporation, for landfarms), with the use of thin-wall and/or split-spoon devices or similar coring devices. After 30 feet, samples shall be at a maximum of 5-foot intervals. The Office of Environmental Services may approve other forms of boreholes logging on a case-by-case basis and with proper justification.

3. Boring Requirements Applicable to Type III Facilities

a. Type III facilities shall install a minimum of three borings and at least one boring for every 8 acres of regulated unit(s) to a minimum depth of 5 feet below the lowest point of excavation.

b. All borings shall be continuously sampled to at least 5 feet below the lowest point of excavation with the use of the administrative authority's approved form of geological investigation device.

c. Ground surface elevations (NGVD) of the boring location and the lowest point of excavation shall be surveyed or estimated through the use of USGS quadrangle maps.

d. Logs of borings and other forms of geological investigation approved by the administrative authority for Type III facilities shall be submitted on a geologic cross

section and shall include applicable information required in Subparagraph C.2.a of this Section.

B. Groundwater Flow Determination Requirements Applicable to Type I and Type II Facilities

1. Groundwater flow directions shall be determined using a minimum of three piezometers or monitoring wells in each water-bearing zone including zones that comprise the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present).

2. Piezometers and monitoring wells that are used to characterize groundwater flow directions shall be constructed, and well-completion diagrams submitted, in accordance with the applicable well construction standards in LAC 33:VII.805.A.3.

3. The reference point of each piezometer and monitoring well that is used for measuring water levels shall be surveyed by a professional surveyor, licensed in the state of Louisiana.

4. Water levels of piezometers and monitoring wells that are used for determining groundwater flow directions shall be measured at least four times in a one-year period (quarterly) to provide seasonal and temporal fluctuations in groundwater flow rates and directions.

C. Geology and Groundwater Flow Characterization Requirements Applicable to Type I and II Facilities

1. Regional Geology and Groundwater Flow Characterization

a. A geologic cross-section from available published information that depicts the stratigraphy to a depth of at least 200 feet below the ground surface shall be provided.

b. The areal extent, thickness, and depth to the upper surface, and any interconnection of aquifers, from all available information shall be provided for all recognized aquifers that have their upper surfaces within 200 feet of the ground surface.

c. The directions and rates of groundwater flow shall be provided for all recognized aquifers that have their upper surface within 200 feet of the ground surface, shown on potentiometric maps.

2. Facility Geology and Groundwater Flow Characterization

a. Geologic cross sections shall be provided for each transect (line of borings) and shall depict the following information in relation to NGVD:

i. lithologic and boring log data from all borings drilled at the facility, including borings for existing, as well as plugged and abandoned, monitoring wells and piezometers;

ii. locations and depths of borings, monitoring wells, and peizometers;

iii. excavation depths (or depths of the zone of incorporation, for landfarms) on applicable cross sections;

iv. screen intervals of all existing and plugged and abandoned monitoring wells and piezometers;

v. other applicable features such as faults, slurry walls, groundwater dewatering systems, etc.; and

vi. identification of individual stratigraphic units, including units that comprise the uppermost aquifer, uppermost water-bearing permeable zone(s) (if present), lower confining unit, and confining unit that underlies the uppermost water-bearing permeable zone(s) (if present).

b. The areal extent, depths, and thickness of all permeable zones to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation, for landfarms) shall be provided on structure contour maps and isopach maps, including the zones that comprise the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present). Structure contour maps and isopach maps shall display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

c. The areal extent, depths, and thickness of the lower confining unit for the uppermost aquifer and the confining unit underlying the uppermost water-bearing permeable zone(s) (if present) shall be provided on structure contour maps and isopach maps. Structure contour maps and isopach maps shall display the location of the facility, boring locations, and corresponding elevation or thickness measurement at each boring location.

d. Any faults that are mapped as existing through the facility shall be displayed on structure contour maps and shall show the fault trace and arrows pointing to the downthrown side of fault.

e. At least four scaled potentiometric surface maps shall be provided over a one-year period (quarterly) for each saturated permeable zone to a depth of at least 30 feet below the lowest point of excavation (or zone of incorporation, for landfarms), including the zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present). Scaled potentiometric surface maps shall display the location of the facility, monitoring well and piezometer locations, and corresponding water level elevation measurement at each well location.

f. Characterization of groundwater flow directions shall be provided between saturated permeable zones. The characterization shall include the use of various illustrations such as potentiometric surface maps, flow nets depicting vertical and horizontal flow directions, etc.

g. Discussion of any change in groundwater flow direction anticipated to result from any facility activities shall be provided.

h. Establishment of zones that comprise the uppermost aquifer, uppermost water-bearing permeable zone(s) (if present), and lower confining unit shall be provided.

i. Groundwater flow rates and calculations shall be provided for each zone that comprises the uppermost aquifer and uppermost water-bearing permeable zone(s) (if present).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1075 (June 2007), amended LR 33:2151 (October 2007).

## §805. Facility Groundwater Monitoring

A. Groundwater Monitoring System. The following facility groundwater monitoring standards are applicable to all Type I and Type II facilities.

1. At each facility, a groundwater-monitoring system shall be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, in accordance with Paragraph A.2 of this Section, to yield groundwater samples from the uppermost aquifer, and from the uppermost water-bearing permeable zone(s), to yield sufficient quantities of water for sampling that:

a. represent the quality of the background groundwater that has not been affected by leakage from a unit; and

b. represent the quality of groundwater passing the relevant point of compliance. For the purposes of these regulations, the *relevant point of compliance* is the vertical surface that is located no more than 150 meters downgradient from the unit being monitored and extends down into the uppermost aquifer underlying the facility and any other permeable zones being monitored. The distance may be reduced by the administrative authority. The relevant point of compliance shall be on property owned or controlled by the permit holder and shall be selected based on at least the following factors:

i. hydrological characteristics of the facility and the surrounding land;

ii. volume and physical and chemical characteristics of the leachate;

iii. quantity, quality, and direction of flow of groundwater;

iv. proximity and withdrawal rate of the groundwater users;

v. availability of alternative drinking water supplies;

vi. existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater, and whether the groundwater is currently used or reasonably expected to be used for drinking water; and

vii. public health, safety, and welfare effects.

2. Location of Wells

a. Enough monitoring wells shall be located hydraulically upgradient of the facility to yield samples that represent background groundwater quality as required in Paragraph A.1 of this Section.

b. A minimum of one upgradient well per zone monitored is required.

c. Monitoring wells other than upgradient of the facility may be sampled for background groundwater quality if:

i. hydrologic conditions do not allow the permit holder to determine which wells are hydraulically upgradient; or

ii. sampling at other wells will provide an indication of background groundwater quality that is more representative than sampling of upgradient wells.

d. Enough monitoring wells shall be located hydraulically downgradient from the facility to yield samples that are representative of the groundwater passing the relevant point of compliance. Downgradient monitoring well locations and screen intervals shall target the most likely contaminant pathways. At least two downgradient wells per zone monitored shall be provided. The downgradient wells shall be screened in the same zone as the upgradient wells. Spacing between downgradient wells shall not exceed 800 feet.

e. The number, spacing, and depths of monitoring wells shall be determined based upon site-specific technical information that shall include thorough characterization of:

i. aquifer thickness, groundwater flow rate, and groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and

ii. saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including, but not limited to, thickness, stratigraphy, lithology, hydraulic conductivities, porosities, and effective porosities.

f. The administrative authority will consider for approval multi-unit groundwater monitoring systems, provided these systems meet the requirements of Paragraph A.1 of this Section and will be as protective of human health and the environment as groundwater monitoring systems for individual units.

g. The administrative authority may modify the requirements of this Subsection for site-specific considerations in approving groundwater monitoring systems for ditches.

3. Well Construction

a. Well construction shall be in accordance with the Water Well Rules, Regulations, and Standards, as adopted by the Louisiana Department of Transportation and Development, Water Resources Section, in LAC 56, as well as the guidelines established in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*.

b. Construction of monitoring wells for facilities regulated by the department shall require approval of the administrative authority prior to construction.

c. In addition to the construction standards set forth in LDOTD's Water Well Rules, Regulations, and Standards, the following is required for monitoring wells.

i. All wells shall have protective casing with locking covers and a secure locking device in place.

ii. All wells shall have guard posts firmly anchored outside the well slab, but not in contact with the slab.

iii. The maximum allowable screen length shall not exceed 10 feet.

iv. A sign or plate shall be permanently affixed to the protective well casing and shall prominently display:

(a). the well identification number;

(b). identification of the well as upgradient or downgradient;

(c). the elevation of the top of the well casing in relation to NGVD;

(d). screen depth in relation to NGVD; and

(e). the date of well installation and any subsequent repairs.

4. Post Construction. Within 90 days after construction of the wells, the permit holder or applicant shall submit to the Office of Environmental Services well-completion details to verify that the wells were constructed according to the approved specifications and to document construction procedures. A permit modification fee will not be required. Well-completion details shall include, but are not limited to:

a. daily field notes documenting construction procedures and any unusual occurrences, such as grout loss, etc.;

b. a boring log for each well including surface elevation with respect to NGVD or comparable reference points; and

c. well-completion diagrams for each well showing all pertinent features, such as the elevation of the reference point for measuring groundwater levels, screen interval, and ground surface. If features change from the approved plans, then a permit-modification request shall be submitted in accordance with LAC 33:VII.517.

5. Plugging and Abandonment of Monitoring Wells and Geotechnical Borings

a. The Water Well Rules, Regulations, and Standards, as adopted by the Louisiana Department of Transportation and Development, Water Resources Section, in LAC 56, as well as the guidelines established in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, shall apply to all plugging and abandonment of wells and holes including, but not limited to, observation wells, monitoring wells, piezometer wells, leak-detection wells, assessment wells, recovery wells, abandoned pilot holes, test holes, and geotechnical boreholes.

b. In addition to the standards in LDOTD's Water Well Rules, Regulations, and Standards and in the latest version of the LDEQ's and LDOTD's *Construction of Geotechnical Boreholes and Groundwater Monitoring Systems Handbook*, the following standards shall apply to plugging and abandonment.

i. For any well, the primary method of plugging and abandonment shall be removal of the well's casing and other components of the well, including, but not limited to, the screen, grout, bentonite seal, filter pack, concrete slab, protective casing, guard posts, and native soil in immediate contact with the grout, and subsequent installation of cement-bentonite grout, from the bottom of the resulting borehole to the ground surface using the tremie method.

ii. In areas where all or a part of the well's casing and other components of the well cannot be plugged and abandoned in accordance with the procedure stated in Clause A.5.b.i of this Section, the well shall be plugged and abandoned by installation of cement-bentonite grout inside the well's casing, from the bottom of the well to the ground surface, provided that the annular seal is demonstrated to be adequately sealed and the following items are submitted:

(a). supporting documentation, prior to plugging the well, that demonstrates that removal of all or part of the well's casing and other components of the well in accordance with the procedure stated in Paragraph A.5 of this Section will be detrimental to the environment; and/or

(b). certification and supporting documentation by a qualified professional well constructor that shows that removal of the well's casing was attempted and that continued attempts to remove all or a part of the well's casing and other components of the well, as stated in Paragraph A.5 of this Section, would have been detrimental to the environment.

iii. After plugging and abandoning a well, all surface features of the well, including, but not limited to, the concrete slab, guard posts, and protective casing, shall be dismantled and disposed of in an environmentally sound manner, and the surface shall be restored to its original condition.

iv. The permit holder shall notify the Office of Environmental Services of the plugging and abandonment of monitoring wells or geotechnical borings and keep records of such abandonments.

6. Monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

B. Groundwater Sampling and Analysis Requirements

1. A groundwater-monitoring program shall be implemented, at each facility, that includes consistent sampling and analysis procedures that ensure monitoring results are representative of groundwater quality at the background and downgradient well locations.

2. A groundwater sampling and analysis plan shall be prepared that meets the requirements of this Subsection, as well as the requirements of LAC 33:VII.3005.Appendix C, and that includes procedures and techniques for:

a. sample collection that ensures that collected samples are representative of the zones being monitored and that prevents cross-contamination of or tampering with samples;

b. sample preservation and shipment that ensure the integrity and reliability of the sample collected for analysis;

c. chain of custody control;

d. quality-assurance/quality-control, including detection limits, precision and accuracy of analyses, rinsate samples, field blanks, trip blanks, field duplicates, and matrix spikes/matrix spike duplicates; and

e. statistical evaluation of the groundwater monitoring data for each parameter or constituent sampled at each monitoring well.

3. The sampling and analysis plan shall provide the sampling frequency and include:

a. the selection of parameters or constituents to be sampled and analyzed during detection monitoring, and justification for the parameters or constituents, where applicable;

b. identification of the analytical procedures to be followed (reference source of analytical method); and

c. the practical quantitation limit (PQL) for each parameter or constituent.

4. The PQL for each groundwater monitoring parameter or constituent shall be:

a. the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility; and

b. equal to or lower than the groundwater protection standard for that parameter or constituent as set in accordance with LAC 33:I.Chapter 13, when applicable.

5. Background groundwater quality shall be established for the facility in a hydraulically upgradient well, or other well as provided in Subparagraph A.2.c of this Section, for each groundwater parameter or constituent.

6. Statistical Methods

a. The number of samples collected to establish groundwater quality data shall be consistent with the appropriate statistical procedures used. A decision tree diagram is included in LAC 33:VII.3005.Appendix C, as a reference in the selection of an appropriate statistical procedure.

b. The statistical methods used in evaluating groundwater data shall be specified in the sampling and analysis plan for each parameter or constituent to be monitored. The statistical test chosen shall be conducted separately for each parameter or constituent in each well. One of the following statistical methods shall be used:

i. a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each parameter or constituent;

ii. an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's median and the background median levels for each parameter or constituent;

iii. a tolerance or prediction interval procedure in which an interval for each parameter or constituent is established from the distribution of the background data, and the level of each parameter or constituent in each compliance well is compared to the upper tolerance or prediction limit;

iv. a control chart approach that gives control limits for each parameter or constituent; or

v. another statistical test method that meets the performance standards of Subparagraph B.6.c of this Section. The permit holder shall place a justification for this alternative in the operating record and notify the administrative authority of the use of this alternative test. The justification shall demonstrate that the alternative method meets the performance standards of Subparagraph B.6.c of this Section.

c. Any statistical method chosen under Subparagraph B.6.b of this Section shall comply with the following performance standards, as appropriate.

i. The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of the parameters or constituents. If the distribution of the chemical parameters or constituents or hazardous parameters or constituents is shown by the permit holder to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the parameters or constituents differ, more than one statistical method may be needed.

ii. If an individual well comparison procedure is used to compare an individual compliance well parameter or constituent concentration with background parameters or constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons

procedure is used, the Type I experiment-wide error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons shall be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

iii. If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter or constituent values shall be protective of human health and the environment. The parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern.

iv. If a tolerance interval or a predictional interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval shall contain, shall be protective of human health and the environment. These parameters or constituents shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each parameter or constituent of concern.

v. The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (PQL) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

vi. If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

d. The permit holder shall determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the facility, as determined in Subsections C and D of this Section.

i. In determining whether a statistically significant increase has occurred, the permit holder shall compare the groundwater quality of each parameter or constituent at each monitoring well designated in accordance with Subparagraph A.1.b of this Section to the background value of that parameter or constituent, according to the statistical procedures and performance standards specified under Subparagraphs B.6.b and c of this Section.

ii. Within 90 days after the date of sampling, the permit holder shall determine whether there has been a statistically significant increase over background at each monitoring well.

C. Detection Monitoring Program

1. All Type I and II facilities shall conduct a detection monitoring program as described in this Subsection.

2. Initial Sampling

a. For a new facility, monitoring wells shall be sampled and the groundwater monitoring data for a sampling event shall be submitted to the Office of Environmental Services before waste is accepted.

b. For an existing facility with no wells in place at the time of the application submittal or at the time at which the facility becomes subject to these regulations, the groundwater monitoring data shall be submitted to the Office of Environmental Services within 90 days after installation of the monitoring wells.

c. A minimum of four independent samples from each well (upgradient and downgradient) shall be collected and analyzed during the initial sampling event for a facility. The initial sampling event shall consist of quarterly sampling over a 1-year period. Thereafter, at least one sample shall be collected and analyzed at each well for each sampling event.

3. After the initial 1-year sampling event, sampling and analysis of all wells shall be conducted every six months.

4. The groundwater monitoring program shall be conducted for the life of the facility and for the duration of the post-closure care period of the facility, which is specified in LAC 33:VII.721.E or 723.E. Groundwater monitoring may be extended beyond the period specified if deemed necessary by the administrative authority.

5. The permit holder or applicant shall submit three bound copies (8 1/2 by 11 inches) of a report of all groundwater sampling results to the Office of Environmental Services no later than 90 days after each sampling event.

a. The reports shall be submitted on forms provided by the administrative authority and shall include, at a minimum:

i. documentation of the chain of custody of all sampling and analyses;

ii. scaled potentiometric surface maps showing monitoring well and piezometer locations and groundwater elevations with respect to NGVD for each stratum monitored;

iii. plots by well showing concentration of parameters or constituents versus time. If the facility is conducting assessment or corrective action monitoring, then in addition to the plots by well of concentration versus time, an isopleth map shall be submitted for each zone monitored; and

iv. a statement of whether a statistically significant difference in concentration over background concentrations is detected.

b. The administrative authority may waive or require information to be included in each groundwater sampling report.

6. If a statistically significant increase over background concentrations is determined for one or more parameters or constituents required to be monitored, the permit holder shall:

a. submit to the Office of Environmental Services:

i. within 14 days after the determination is made, a report that identifies which parameters or constituents were determined to have shown statistically significant changes over background levels; and

ii. written notification at least 14 days prior to conducting any verification resampling event; and

b. within 90 days after the determination is made:

i. initiate an assessment monitoring program for the facility meeting the requirements of Subsection D of this Section; or

ii. submit a report to the Office of Environmental Services demonstrating that a source other than the facility being sampled caused the contamination or that the statistically significant increase resulted from an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration, in writing, the permit holder may continue the detection monitoring program. If the administrative authority does not approve the demonstration, in writing, the permit holder shall establish an assessment monitoring program meeting the requirements of Subsection D of this Section within 90 days after the determination in this Paragraph is made.

7. Detection Monitoring Parameters or Constituents

a. During detection monitoring, Type I landfills and Type I surface impoundments (except Type I landfills that are also Type II landfills and Type I surface impoundments that are associated with such Type I landfills) shall monitor for at least 10 chemical parameters or constituents, both inorganic and organic, that are indicator parameters or constituents or reaction products of the waste and that provide a reliable indication of the presence of contaminants in the groundwater. The administrative authority may reduce the number of parameters, if appropriate, based on site-specific and waste-specific consideration. Selection of these parameters or constituents is subject to the approval of the administrative authority and shall be based on the following factors:

i. types, quantities, and concentrations of constituents in the wastes disposed of at the facility;

ii. mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the facility;

iii. detectability of indicator parameters, waste constituents, or their reaction products in the groundwater; and

iv. concentrations or values and coefficients of variation of the proposed monitoring parameters or constituents in the background groundwater at the facility.

b. During detection monitoring, Type II landfills, including Type II surface impoundments associated with Type II landfills, shall be monitored for all the parameters or constituents listed in LAC 33:VII.3005.Appendix C, Table 1.

c. During detection monitoring, Type I landfarms, including runoff and containment areas (ROCAs) or surface impoundments associated with Type I landfarms, shall be monitored for the same parameters or constituents as provided for Type II landfarms in Subparagraph C.7.d of this Section and also for at least six parameters or constituents, both organic and inorganic, that are intrinsic to the wastes being disposed at the facility. The intrinsic parameters or constituents shall be selected on the basis of the factors in Clauses C.7.a.i-iv of this Section and shall be subject to the approval of the administrative authority.

d. During detection monitoring, Type II landfarms, including runoff and containment areas (ROCAs) or surface impoundments associated with such landfarms, shall be monitored for 5-day biochemical oxygen demand ($BOD_5$), fecal coliform, total dissolved solids (TDS), nitrate, total Kjeldahl nitrogen, and polychlorinated biphenyls (PCBs), if applicable.

e. Type II surface impoundments shall be monitored for the same parameters or constituents as provided for Type II landfarms in Subparagraph C.7.d of this Section.

f. The administrative authority may waive or require additional parameters or constituents, based on site-specific or waste-specific information.

D. Assessment Monitoring Program for Type I and Type II Facilities

1. An assessment monitoring program as described in this Subsection is required to be conducted at Type I and Type II facilities whenever a statistically significant increase over background concentrations is detected for one or more of the parameters or constituents sampled and analyzed during the detection monitoring program.

2. The assessment monitoring parameters for:

a. Type II landfills and associated Type II impoundments shall be the parameters listed in Table 2 of LAC 33:VII.3005.Appendix C; and

b. Type I and Type II facilities, other than Type II landfills and associated Type II impoundments, shall be the detection monitoring parameters or constituents listed in Table 1 of LAC 33:VII.3005.Appendix C, although the administrative authority may add additional parameters or constituents on a site-specific and waste-specific basis.

3. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the permit holder shall sample and analyze the groundwater for the assessment monitoring parameters or constituents. A minimum of one sample from each downgradient well shall

be collected and analyzed during each sampling event. For any parameter or constituent detected in the downgradient wells as a result of sampling for the assessment monitoring parameters or constituents, a minimum of four independent samples from each well (background and downgradient) shall be collected and analyzed to establish background for the parameters or constituents.

a. The administrative authority may specify an appropriate subset of the wells to be sampled and analyzed for assessment monitoring parameters or constituents during assessment monitoring.

b. The administrative authority may delete any of the assessment monitoring parameters or constituents for a facility if it can be shown that the omitted parameters or constituents are not reasonably expected to be in or derived from the waste contained in the unit.

4. No later than 90 days after the completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall submit a report to the Office of Environmental Services, identifying the assessment monitoring parameters or constituents that have been detected. No later than 180 days after completion of the initial or subsequent sampling events for all assessment monitoring parameters or constituents required in Paragraph D.3 of this Section, the permit holder shall:

a. resample all wells and analyze for all detection monitoring parameters or constituents and for those assessment monitoring parameters or constituents that are detected in response to Paragraph D.3 of this Section. At least one sample shall be collected from each well (background and downgradient) during these sampling events. This sampling shall be repeated semiannually thereafter;

b. establish background groundwater concentrations for any parameter or constituent detected in accordance with Paragraph D.3 or 4 of this Section; and

c. establish groundwater protection standards for all parameters or constituents detected in accordance with Paragraph D.3 or 4 of this Section. The groundwater protection standards shall be established in accordance with Paragraph D.8 of this Section.

5. If the concentrations of all assessment monitoring parameters or constituents are shown to be at or below background values, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), for two consecutive sampling events, the permit holder shall notify the Office of Environmental Services and, upon written approval of the administrative authority, may return to detection monitoring.

6. If the concentrations of any assessment monitoring parameters or constituents are above background values, but all concentrations are below the groundwater protection standard established under Paragraph D.8 of this Section, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder will be placed in assessment monitoring for the life of the facility or until the assessment monitoring parameters are below the established background values. As part of the corrective action development, the permit holder shall submit a work plan for approval to the Office of Environmental Services.

a. This work plan shall include:

i. proposal of additional groundwater wells outside the area of contamination in order to demonstrate that the facility has control of the plume and/or source of contamination;

ii. proposal of semiannual groundwater monitoring reports demonstrating that the concentrations of the constituents of concern is not increasing;

iii. a scaled figure depicting the location of the area of investigation, existing and proposed groundwater monitoring wells, and property boundaries;

iv. scaled potentiometric maps depicting water elevations of all existing and proposed monitoring wells. These maps shall be submitted as part of the semiannual groundwater monitoring reports; and

v. an isopleth map for each well of all parameters or constituents, or plots by well concentration of parameters or constituents verses time.

b. The Office of Environmental Services may request additional information based on the data submitted in the work plan.

7. If one or more assessment monitoring parameters or constituents are detected at statistically significant levels above the groundwater protection standard established in Paragraph D.8 of this Section, in any sampling event, using the statistical procedures in Paragraph B.6 of this Section or other EPA-approved methods for comparison to a fixed limit (such as an MCL), the permit holder shall, within 14 days of the determination, notify all appropriate local government officials and submit a report to the Office of Environmental Services identifying the assessment monitoring parameters or constituents that have exceeded the groundwater protection standard. The permit holder shall comply with one of the following requirements.

a. The permit holder shall:

i. within 90 days after the determination is made, submit four bound copies (8 1/2 x 11 inches) of an assessment plan to the Office of Environmental Services, as well as any necessary permit modification, that provides for:

(a). characterization of the nature and extent of the release by installing and sampling additional monitoring wells as necessary;

(b). installation of at least one additional monitoring well at the facility boundary in the direction of the contaminant migration and sampling of this well in accordance with Subparagraph D.4.b of this Section; and

(c). a schedule for implementing the plan;

ii. notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site as indicated by the sampling of the wells in accordance with Clause D.7.a.i of this Section;

iii. upon consultation with and approval of the administrative authority, implement any interim measures necessary to ensure the protection of human health and the environment. Interim measures shall, to the greatest extent practicable, be in accordance with LAC 33:I.Chapter 13 and be consistent with the objectives of and contribute to the performance of any remedy that may be required in accordance with Subsection F of this Section. The following factors shall be considered by a permit holder in determining whether interim measures are necessary:

(a). the time required to develop and implement a final remedy;

(b). actual or potential exposure of nearby populations or environmental receptors to hazardous parameters or constituents;

(c). actual or potential contamination of drinking water supplies or sensitive ecosystems;

(d). further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

(e). weather conditions that may cause hazardous parameters or constituents to migrate or be released;

(f). risk of fire or explosion, or potential for exposure to hazardous parameters or constituents as a result of an accident or failure of a container or handling system; and

(g). other situations that may pose threats to human health and the environment;

iv. initiate an assessment of corrective measures as required by Subsection E of this Section.

b. If the facility being sampled did not cause the contamination, the permit holder may submit a report to the Office of Environmental Services demonstrating that a source other than the facility being sampled caused the contamination, or the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. If the administrative authority approves this demonstration in writing, the permit holder shall continue assessment monitoring at the facility in accordance with this Subsection or may return to detection monitoring if the assessment monitoring parameters or constituents are below background as specified in Paragraph D.5 of this Section. Until such a written approval is given, the permit holder shall comply with Subparagraph D.7.a of this Section, including initiating an assessment of corrective action measures.

8. The permit holder shall establish a groundwater protection standard for each assessment monitoring parameter or constituent detected in the groundwater. The groundwater protection standard shall be in accordance with LAC 33:I.Chapter 13.

E. Assessment of Corrective Measures at Type I and Type II Facilities

1. Within 90 days of finding that any of the assessment monitoring parameters or constituents listed in Table 2 of LAC 33:VII.3005.Appendix C have been detected at a statistically significant level exceeding the groundwater protection standards defined in Paragraph D.8 of this Section, the permit holder shall initiate an assessment of corrective measures.

2. The permit holder shall continue to monitor in accordance with the assessment monitoring program throughout the period of corrective action, as specified in Subsection D of this Section.

3. The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described in Subsection F of this Section, addressing at least the following:

a. performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

b. the time required to begin and complete the remedy;

c. the costs of remedy implementation; and

d. institutional requirements such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy.

4. For Type II landfills and associated surface impoundments, the results of the corrective measures assessment shall be discussed by the permit holder, in a public meeting prior to the selection of remedy, with interested and affected parties.

F. Selection of Remedy and Corrective Action Plan at Type II Landfills and Associated Surface Impoundments

1. Based on the results of the corrective measures assessment required in Subsection E of this Section, the permit holder shall select a remedy that, at a minimum, meets the standards of Paragraph F.2 of this Section. Within 180 days after initiation of the corrective measures assessment required in Subsection E of this Section, the permit holder shall submit four bound copies (8 1/2 by 11 inches) of a corrective action plan to the Office of Environmental Services describing the selected remedy, which will meet the requirements of Paragraphs F.2-4 of this Section and be in accordance with LAC 33:I.Chapter 13. The corrective action plan shall also provide for a corrective action groundwater monitoring program as described in Subparagraph G.1.a of this Section.

2. Remedies shall:

a. be protective of human health and the environment;

b. attain the groundwater protection standard as specified in accordance with Paragraph D.8 of this Section;

c. control the source of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of assessment monitoring parameters or constituents into the environment that may pose a threat to human health or the environment; and

d. comply with standards for management of wastes as specified in Paragraph G.7 of this Section.

3. In selecting a remedy that meets the standards of Paragraph F.2 of this Section, the permit holder shall consider the following evaluation factors:

a. long-term and short-term effectiveness and protectiveness of the potential remedy, along with the degree of certainty that the remedy will prove successful based on consideration of the following:

i. the magnitude of reduction of existing risks;

ii. the magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;

iii. the type and degree of long-term management required, including monitoring, operation, and maintenance;

iv. short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal of containment;

v. the time until full protection is achieved;

vi. the potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;

vii. the long-term reliability of the engineering and institutional controls; and

viii. the potential need for replacement of the remedy;

b. the effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

i. the extent to which containment practices will reduce further releases; and

ii. the extent to which treatment technologies may be used;

c. the ease or difficulty of implementing a potential remedy based on consideration of the following types of factors:

i. the degree of difficulty associated with constructing the technology;

ii. the expected operational reliability of the technologies;

iii. the need to coordinate with and obtain necessary approvals and permits from other agencies;

iv. the availability of necessary equipment and specialists; and

v. the available capacity and location of needed treatment, storage, and disposal services;

d. the practicable capability of the permit holder, including a consideration of the technical and economic capability; and

e. the degree to which community concerns are addressed by a potential remedy.

4. The permit holder shall specify, as part of the selected remedy, a schedule for initiating and completing remedial activities. Such a schedule shall require the initiation of remedial activities within a reasonable period of time. The permit holder shall consider the following factors in determining the schedule of remedial activities:

a. the extent and nature of the contamination;

b. the practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established in Paragraph D.8 of this Section and other objectives of the remedy;

c. the availability of treatment or the disposal capacity for wastes managed during implementation of the remedy;

d. the desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;

e. potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;

f. the resource value of the aquifer, including:

i. current and future uses;

ii. proximity and withdrawal rate of users;

iii. groundwater quantity and quality;

iv. potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to parameters or constituents;

v. the hydrogeologic characteristic of the facility and surrounding land;

vi. groundwater removal and treatment costs;

vii. the cost and availability of alternative water supplies;

viii. the practicable capability of the permit holder; and

g. other relevant factors.

5. The administrative authority may determine that remediation of a release of an assessment monitoring parameter or constituent from a facility is not necessary if the permit holder demonstrates to the satisfaction of the administrative authority that:

a. the groundwater is additionally contaminated by substances that have originated from a source other than a facility, and those substances are present in such concentrations that cleanup of the release from the facility would provide no significant reduction in risk to actual or potential receptors;

b. a parameter or constituent is present in groundwater that is:

i. not currently or reasonably expected to be a source of drinking water; and

ii. not hydraulically connected with waters to which the parameters or constituents are migrating or are likely to migrate in a concentration that would exceed the groundwater protection standards established in Paragraph D.8 of this Section;

c. remediation of the release is technically impracticable; or

d. remediation results in unacceptable cross-media impacts.

6. A determination by the administrative authority in accordance with Paragraph F.5 of this Section shall not affect the authority of the administrative authority to require the permit holder to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and that significantly reduce threats to human health or the environment.

G. Implementation of the Corrective Action Programs at Type I and Type II Facilities

1. After the corrective action plan has been approved by the administrative authority and, based on the corrective action plan schedule established under Paragraph F.4 of this Section for initiation and completion of remedial activities, the permit holder shall:

a. implement a corrective action groundwater monitoring program as described in the approved corrective action plan that:

i. at a minimum, meets the requirements of an assessment monitoring program in Subsection D of this Section;

ii. indicates the effectiveness of the corrective action remedy; and

iii. demonstrates compliance with the groundwater protection standard in accordance with Paragraph D.8 of this Section; and

b. implement the corrective action plan established under Subsection F of this Section.

2. A permit holder may submit a report to the Office of Environmental Services demonstrating, based on information developed after implementation of the corrective action plan has begun or other information, that compliance with requirements of Paragraph F.2 of this Section are not being achieved through the remedy selected. A revised corrective action plan providing other methods or techniques that could practically achieve compliance with the requirements of Paragraph F.2 of this Section shall accompany the demonstration.

3. If the administrative authority approves, in writing, the demonstration and revised corrective action plan submitted in accordance with Paragraph G.2 of this Section, the permit holder shall implement the revised corrective action plan.

4. The permit holder may submit a report to the Office of Environmental Services demonstrating that compliance with the requirements of Paragraph F.2 of this Section cannot be achieved with any currently available methods.

5. If the administrative authority approves, in writing, the demonstration submitted in accordance with Paragraph G.4 of this Section, the permit holder shall, within 30 days of the approval, submit a plan to the Office of Environmental Services (which includes an implementation schedule) to implement alternate measures in accordance with LAC 33:I.Chapter 13:

a. to control exposure of humans and the environment to residual contamination as necessary to protect human health and the environment; and

b. for the control of the sources of contamination, or for the removal or decontamination of equipment, devices, or structures, that are technically practicable and consistent with the overall objective of the remedy.

6. If the administrative authority approves the plan for alternate measures submitted in accordance with Paragraph G.5 of this Section, the permit holder shall implement the plan.

7. All solid wastes that are managed in accordance with a remedy required in Subsection F of this Section, or an interim measure required in Clause D.7.a.iii of this Section, shall be managed in a manner:

a. that is protective of human health and the environment; and

b. that complies with applicable RCRA requirements.

8. Remedies selected in accordance with Subsection F of this Section shall be considered complete when:

a. the permit holder complies with the groundwater protection standards established in Paragraph D.8 of this Section at all points within the plume of contamination that lie beyond the groundwater monitoring well system established in Subsection A of this Section; and

b. compliance with the groundwater protection standards established in Paragraph D.8 of this Section has been achieved by demonstrating that concentrations of assessment monitoring parameters or constituents have not exceeded the groundwater protection standard for a period of three consecutive years using the statistical procedures and performance standards in Paragraph B.6 of this Section. The administrative authority may specify an alternative length of time during which the permit holder shall demonstrate that concentrations of the assessment monitoring parameters or constituents have not exceeded the groundwater protection standard, taking into consideration:

i. the extent and concentration of the release;

ii. behavior characteristics of the hazardous parameters or constituents in the groundwater;

iii. accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and

iv. the characteristics of the groundwater; and

c. all actions required to complete the remedy have been satisfied.

9. Upon completion of the remedy, the permit holder shall submit to the administrative authority, within 14 days, a certification that the remedy has been completed in compliance with the requirements of Paragraph G.8 of this Section. The certification shall be signed by the permit holder and approved by the administrative authority.

10. When, upon completion of the certification, the administrative authority determines that the corrective action remedy has been completed in accordance with the requirements of Paragraph G.8 of this Section, the permit holder shall be released from the requirements for financial assurance for corrective action in LAC 33:VII.1305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:1077 (June 2007), LR 33:2152 (October 2007).

# Chapter 9. Enforcement

## §901. Failure to Comply

A. Failure of any person to comply with any of the provisions of these regulations or of the terms and conditions of any permit granted or order issued hereunder constitutes a violation of the Act.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

## §903. Investigations: Purposes, Notice

A. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the persons or parties involved. The results of an investigation shall be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

## §905. Development of Facts, Reports

A. The administrative authority may conduct inquiries and develop facts in investigations by staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority or his presiding officer may hold public hearings and/or issue subpoenas pursuant to R.S. 30:2025(I) and require attendance of witnesses and production of documents, or may take such other action as may be necessary and authorized by the Act or rules promulgated by the administrative authority. At the conclusion of the investigation, all facts and information concerning any alleged violation that have been developed shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative authority for use in possible enforcement proceedings. Any complainant who provided the information prompting the investigation shall be notified of its results.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

## §907. Enforcement Action

A. When the administrative authority determines that a violation of the Act or these regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1085 (June 2007).

### §909. Closing Unauthorized and Promiscuous Dumps

A. The administrative authority shall require closure of unauthorized dumps either by removal of the waste to an approved solid waste facility or by completing on-site closure requirements. The method of closure must be approved by the administrative authority prior to closure.

B. After an unauthorized dump is discovered, the administrative authority may issue an enforcement action with a closure directive to the owner/operator. Directives issued for unauthorized dumps shall require closure of the unauthorized dump in accordance with the procedures in this Section.

C. Requirements for on-site closure are as follows.

1. If required, or authorized and approved, by the administrative authority, closure shall be conducted in accordance with LAC 33:I.Chapter 13. However, the requirements of Subparagraph C.2.g of this Section shall apply. If closure in accordance with LAC 33:I.Chapter 13 results in constituent-of-concern levels remaining above those allowed for residential scenarios, the requirements of Subparagraph C.2.f of this Section shall also apply.

2. If closure will not be conducted in accordance with Paragraph C.1 of this Section, then approval or authorization may be granted by the administrative authority for the following alternative closure requirements:

a. extinguish all fires;

b. dewater and either solidify waste for return to the landfill or discharge it as governed by a NPDES/LPDES permit, if applicable;

c. implement a disease vector extermination program, if applicable;

d. compact the waste with suitable equipment;

e. provide a final cover consisting of a minimum of 24 inches of silty clays and 6 inches of topsoil cover for supporting vegetative growth, and revegetate the area to control erosion if necessary;

f. record in the parish mortgage and conveyance records a document describing the specific location of the facility and specifying that the property was used for the disposal of solid waste. The document shall identify the name of the person with knowledge of the contents of the facility, as well as providing the chemical levels remaining, if present. A true copy of the document, filed and certified by the parish clerk of court, shall be sent to the Office of Environmental Compliance; and

g. conduct long-term monitoring in accordance with Subsection E of this Section, if deemed necessary by the administrative authority.

D. Inspection and Reports. The administrative authority reserves the right to inspect the facility to determine if the requirements for closure have been met.

E. Long-Term Monitoring Responsibilities. The administrative authority may require the following or other long-term monitoring responsibilities of the person legally responsible for the unauthorized dump if deemed necessary.

1. Installation of groundwater monitoring wells in accordance with LAC 33:VII.709.E may be required, along with semiannual reporting for a period of 10 years of monitoring of the facility after closure, or longer if deemed necessary, on a facility-specific basis.

2. Annual reports may be required for a period of three years, or longer if deemed necessary, on the condition of the final cover and the use of the property.

F. An owner who voluntarily requests closure of a promiscuous dump shall close it either by removal of the waste to an approved solid waste facility or by completing on-site closure requirements in accordance with Subsection C of this Section. The method of closure must be approved by the administrative authority prior to closure. The department reserves the right to apply the provisions of Subsections C, D, and E of this Section to close promiscuous dumps.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2025, 2039, and 2155.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), LR 33:1085 (June 2007), LR 33:2153 (October 2007).

## Chapter 11. Solid Waste Beneficial Use and Soil Reuse

### §1101. Applicability

A. Solid waste beneficial use and soil reuse options apply to all solid waste generators. Solid waste beneficial use is available to solid waste streams that are typically disposed of in a solid waste disposal facility and that meet certain requirements as described in this Chapter.

B. Sewage sludge (including domestic septage) shall be generated, treated, processed, composted, blended, mixed, prepared, transported, used, or disposed of in accordance with LAC 33:IX.Chapter 73.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007), LR 35:1880 (September 2009).

### §1103. On-Site Soil Reuse Requirements

A. Soil that is to be reused on-site is exempt from these regulations provided the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil meeting the *non-industrial* standards in the RECAP document. This Section is limited to *in situ* contaminated soil and does not include sludges and

sediments from regulated solid waste units. Any person claiming this exemption shall have records clearly documenting the particular soils reused on-site pursuant to the exemption, including, for example, soil source, soil quantities, and site locations where the soil was reused.

B. Soil that is not exempt under Subsection A of this Section and that is to be reused on-site at an *industrial/commercial* property, as that term is defined in the RECAP document, is exempt from these regulations, provided that:

1. the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil located in an area meeting the *industrial* standards (MO-1 or MO-2) in the RECAP document;

2. the owner or operator of the property notifies the Office of Environmental Services, in writing, of his intent to reuse soil on-site, and attaches the following to the notification:

a. a characterization of the soil in question;

b. a description of the property in question;

c. a description of the proposed uses of the soil on-site (e.g., levee construction, road bed construction, construction fill, daily cover in a regulated facility, etc.); and

d. an on-site soil reuse plan regarding the reuse of the soil in question, which shall address at least the following:

i. procedures for storage of the soil pending reuse;

ii. procedures for handling, transportation, and application of the soil on-site;

iii. procedures for recordkeeping; and

iv. any other procedures required for the protection of human health and the environment (e.g., security, restricted site access, institutional controls, control of storm water runoff, etc.); and

3. the administrative authority notifies the owner/operator of the facility upon the approval of the on-site soil reuse plan.

C. Soil that is not addressed in Subsection A or B of this Section and that is to be reused on-site shall be addressed in accordance with LAC 33:VII.303.A.11, or LAC 33:VII.Chapter 11, or as otherwise deemed appropriate by the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007), LR 33:2153 (October 2007).

## §1105. Beneficial Use of Other Solid Waste

A. An application for beneficial use of solid waste streams shall provide the following information:

1. the name, address, and telephone number of the applicant;

2. the name, address, and telephone number of the applicant's primary contact for departmental correspondence and inquiries, and of the applicant's attorney or other representative, if applicable;

3. the address or site of origin of the solid waste proposed for beneficial use;

4. the chemical and physical characteristics of the material to be beneficially used;

5. statements of the quantity, quality, consistency, and source of the solid waste;

6. a description of the process by which the solid waste is generated, and a demonstration that the generator has minimized the quantity and toxicity of the solid waste proposed for beneficial use to the extent reasonably practicable. The applicant shall provide a detailed narrative and schematic diagram of the production, manufacturing, and/or residue process by which the solid waste that will be beneficially used is generated;

7. a detailed description of the processing activity, if applicable, that will be used to make the solid waste suitable for beneficial use;

8. a demonstration that there is a known or reasonably probable market for the intended use of the beneficial use material, such as a contract to purchase or utilize the material, a description of how the material will be used, and a demonstration that the material complies with industry standards for a product, or other documentation that a market exists;

9. a description of the proposed methods of handling, storing, and utilizing the beneficial use material to ensure that it will not adversely affect the public health or safety, or the environment. This description shall consist of:

a. a statement of procedures to be employed for periodic testing for quality control purposes;

b. a statement of intended storage procedures that will be used, including:

i. run-on/run-off control;

ii. the maximum anticipated inventory;

iii. measures to ensure that no contamination of underlying soil or groundwater occurs;

iv. measures for dispersion control due to wind; and

c. recordkeeping procedures;

10. an acknowledgement that at least 75 percent of the material placed in storage during a year will be sent to

market or to other secure storage within the following year, unless the operator demonstrates that a particular order requires greater than one year of product storage prior to shipment;

11. a demonstration that the end use of the material is protective of public health, safety, and the environment;

12. a discussion of the end users of the material and the locations of the end-use; and

13. any other information the secretary may require or the applicant believes will demonstrate that the proposed beneficial use of the material will conserve, improve, and/or protect human health, natural resources, and the environment.

B. The application shall be signed by the applicant and the individual or individuals responsible for actually preparing the information and supporting data submitted with the application, each of whom shall certify in writing as follows:

> "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate, and complete to the best of my knowledge and belief.
> "I understand that a false statement made in the submitted information may be punishable as a criminal offense, in accordance with La. R.S. 30:2025(F) and in accordance with any other applicable statute."

C. Upon approval the material shall be handled, processed, stored, or otherwise managed in accordance with the proposed plan outlined in the application.

D. Respondents in actions to enforce regulations who raise a claim that the transportation, storage, handling, processing, and/or use of certain material has been approved by the administrative authority pursuant to this Section must demonstrate that there is a known or reasonably probable market or disposition for the material and that the terms of this Section and any department approval are met. In doing so, respondents must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not discarded, but is, instead, subject to beneficial use. In addition, owners or operators of facilities claiming that they actually are preparing materials for beneficial use pursuant to this Section must be able to show that they have the necessary equipment to do so. The administrative authority may revoke or rescind any prior approval provided by the department pursuant to this Section upon failure of a respondent to provide adequate proof in accordance with this Subsection.

E. The Louisiana Pulp and Paper Association and the department established an agreement in May 1997 regarding the applicability of the solid waste regulations (LAC 33:Part.VII) to a variety of materials produced by the pulp and paper industry. This agreement, found in LAC 33:VII.3017.Appendix I, may be utilized by the pulp and paper industry in lieu of submitting a beneficial use plan.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007).

# Chapter 13. Financial Assurance for All Processors and Disposers of Solid Waste

## §1303. Financial Responsibility for Closure and Post-Closure Care

A. Financial Responsibility for Type I, I-A, II, II-A, and III Facilities. Permit holders or applicants of Type I, I-A, II, II-A, and III facilities have the following financial responsibilities for closure and post-closure care.

1. Permit holders or applicants for processing or disposal facilities shall establish and maintain financial assurance for closure and post-closure care.

2. Permit holders of existing facilities shall submit financial assurance documentation that complies with the requirements of this Chapter. Applicants or permit holders for new facilities shall submit evidence of financial assurance in accordance with this Chapter at least 60 days before the date on which solid waste is first received for processing or disposal. The financial assurance documentation shall be approved by the administrative authority prior to any acceptance of waste.

3. The applicant or permit holder shall submit to the Office of Environmental Services the estimated closure date and the estimated cost of closure and post-closure care in accordance with the following procedures.

a. The applicant or permit holder must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in these regulations. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan, and shall be based on the cost of hiring a third party to close the facility in accordance with the closure plan.

b. The applicant or permit holder of a facility subject to post-closure monitoring or maintenance requirements must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the provisions of these regulations. The estimate of post-closure costs is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required and shall be based on the cost of hiring a third party to conduct post-closure activities in accordance with the

closure plan and the most expensive costs of post-closure care during the post-closure care period.

c. The cost estimates must be adjusted within 30 days after each anniversary of the date on which the first cost estimate was prepared on the basis of either the inflation factor derived from the Annual Implicit Price Deflator for Gross Domestic Product, as published by the U.S. Department of Commerce in its *Survey of Current Business* or a reestimation of the closure and post-closure costs in accordance with Subparagraphs A.2.a and b of this Section. The permit holder or applicant must revise the cost estimate whenever a change in the closure/post-closure plans increases or decreases the cost of the closure/post-closure plans. The permit holder or applicant must submit a written notice of any such adjustment to the Office of Environmental Services within 15 days following such adjustment.

d. For trust funds, the first payment must be at least equal to the current closure and post-closure cost estimate, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each annual anniversary of the date of the first payment. The amount of each subsequent payment must be determined by subtracting the current value of the trust fund from the current closure and post-closure cost estimates and dividing the result by the number of years remaining in the pay-in period. For landfill facilities, the initial pay-in period is based on the estimated life of the facility, up to 20 years, unless a longer term is specified in the permit. For all other facilities, the pay-in period is the initial term of the permit, unless a longer term is specified in the permit. Applicants requesting a longer pay-in period shall justify the need for the longer term to the administrative authority.

4. Minor deviations from specified language contained in the appendices of LAC 33:VII.1399 may be approved by the administrative authority on a case-by-case basis if the administrative authority determines that the revised language remains equivalent to or more stringent than the language specified in the specific appendix. The applicant shall show a specific need for the change and all changes shall be approved by the administrative authority before the document can be used to meet the requirements of this Chapter.

5. The permit holder or applicant shall notify the Office of Environmental Services within 30 days of first becoming aware of a reduction in a bond rating when using the financial test allowed by LAC 33:VII.1303.H or I.

B. Financial Assurance Mechanisms. The financial assurance mechanism must be one or a combination of the following: a trust fund, a financial guarantee bond, a performance bond, a letter of credit, an insurance policy, or a financial test and/or corporate guarantee. The financial assurance mechanism is subject to the approval of the administrative authority and must fulfill the following criteria.

1. Except when a financial test, trust fund, or certificate of insurance is used as the financial assurance mechanism, a standby trust fund naming the administrative authority as beneficiary must be established at the time of the creation of the financial assurance mechanism, into which the proceeds of such mechanism could be transferred should such funds be necessary for either closure or post-closure of the facility, and a signed copy must be furnished to the administrative authority with the mechanism.

2. A permit holder or applicant may use a financial assurance mechanism specified in this Section for more than one facility, if all such facilities are located within Louisiana and are specifically identified in the mechanism.

3. The amount covered by the financial assurance mechanism must equal the total of the current closure and post-closure estimates for each facility covered.

4. When all closure and post-closure requirements have been satisfactorily completed, the administrative authority shall execute an approval to terminate the financial assurance mechanism.

5. The language of the financial assurance mechanisms listed in this Section shall ensure that the instruments satisfy the following criteria:

a. The financial assurance mechanisms shall ensure that the amount of funds assured is sufficient to cover the costs of closure and post-closure care when needed.

b. The financial assurance mechanisms shall ensure that funds will be available in a timely fashion when needed.

c. The financial assurance mechanisms shall be obtained by the permit holder or applicant by the effective date of these requirements or at least 60 days prior to the initial receipt of solid waste, whichever is later, and shall provide financial assurance until the permit holder or applicant is released from the financial assurance requirements under this Section.

d. The financial assurance mechanisms shall be legally valid, binding, and enforceable under state and federal law.

6. A financial assurance mechanism may be cancelled or terminated only if alternate financial assurance is substituted as specified in the appropriate section or if the permit holder or applicant is no longer required to demonstrate financial assurance in accordance with these regulations.

C. Trust Funds. A permit holder or applicant may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the following requirements and submitting an originally signed duplicate of the trust agreement to the Office of Environmental Services.

1. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2. Trusts must be accomplished in accordance with and subject to the laws of Louisiana. The beneficiary of the trust shall be the administrative authority.

3. Trust-fund earnings may be used to offset required payments into the fund, to pay the fund trustee, or to pay other expenses of the funds, or may be reclaimed by the permit holder or applicant upon approval of the administrative authority.

4. The trust agreement must be accompanied by an affidavit certifying the authority of the individual signing the trust on behalf of the permit holder or applicant.

5. The permit holder or applicant may accelerate payments into the trust fund or deposit the full amount of the current closure cost estimate at the time the fund is established. The permit holder or applicant must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Subparagraph A.2.d of this Section.

6. If the permit holder or applicant establishes a trust fund after having used one or more of the alternate mechanisms specified in this Section, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Subsection.

7. After the pay-in period is completed, whenever the current cost estimate changes, the permit holder must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the permit holder or applicant, within 60 days after the change in the cost estimate, must either deposit an amount into the fund that will make its value at least equal to the amount of the closure/post-closure cost estimate or it must estimate or obtain other financial assurance as specified in this Chapter to cover the difference.

8. The administrative authority may, on the basis of a reasonable belief that the facility will close before pay-in is completed and the permit holder or applicant does not have adequate funds in the trust for closure and post-closure care, require reports regarding the financial condition of the permit holder or applicant. If the administrative authority finds, on the basis of such reporting or other information, that the permit holder or applicant no longer satisfies the requirements of this Subsection, the permit holder or applicant shall provide alternate financial assurance as specified in this Section within 30 days after notification of such a finding.

9. After beginning final closure, a permit holder, or any other person authorized by the permit holder to perform closure and/or post-closure, may request reimbursement for closure and/or post-closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving bills for such activities, the administrative authority will determine whether the closure and/or post-closure expenditures are in accordance with the closure plan or otherwise justified, and, if so, he or she shall instruct the trustee to make reimbursement in such amounts as the administrative authority specifies in writing. If the administrative authority has reason to believe that the cost of closure and/or post-closure will be significantly greater than the value of the trust fund, he may withhold reimbursement for such amounts as he deems prudent until he determines that the permit holder is no longer required to maintain financial assurance.

10. The wording of the trust agreement shall be identical to the wording in LAC 33:VII.1399.Appendix D, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The trust agreement shall be accompanied by a formal certification of acknowledgement.

D. Financial Guarantee Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a financial guarantee bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

1. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority.

2. The permit holder or applicant who uses a financial guarantee bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The bond must guarantee that the operator will:

a. fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

b. fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure or post-closure is issued; or

c. provide alternate financial assurance as specified in this Section, and obtain the administrative authority's written approval of the assurance provided, within 90 days after receipt by both the permit holder and the administrative authority of a notice of cancellation of the bond from the surety.

4. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond.

5. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

6. Whenever the current cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure estimate and submit evidence of such increase to the Office of Environmental Services or

obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the administrative authority.

7. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the administrative authority. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

8. The wording of the financial guarantee bond guaranteeing payment into a standby trust fund shall be identical to the wording in LAC 33:VII.1399.Appendix E, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

E. Performance Bonds. A permit holder or applicant may satisfy the requirements of this Section by obtaining a performance bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

1. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury and approved by the administrative authority.

2. The permit holder or applicant who uses a performance bond to satisfy the requirements of this Section must also provide to the administrative authority evidence of establishment of a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the administrative authority. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The bond must guarantee that the permit holder or applicant will:

a. perform final closure and post-closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

b. provide alternate financial assurance as specified in this Section and obtain the administrative authority's written approval of the assurance provided within 90 days after the date both the permit holder and the administrative authority receive notice of cancellation of the bond from the surety.

4. Under the terms of the bond, the surety will become liable on the bond obligation when the permit holder fails to perform as guaranteed by the bond. Following a determination by the administrative authority that the permit holder has failed to perform final closure and post-closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure and post-closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

5. The penal sum of the bond must be at least equal to the current closure and post-closure cost estimates.

6. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the permit holder, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate after written approval of the administrative authority.

7. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the permit holder and to the Office of Environmental Services. Cancellation may not occur before 120 days have elapsed beginning on the date that both the permit holder and the administrative authority receive the notice of cancellation, as evidenced by the return receipts.

8. The wording of the performance bond shall be identical to the wording in LAC 33:VII.1399.Appendix F, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

F. Letter of Credit. A permit holder or applicant may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services.

1. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2. A permit holder or applicant who uses a letter of credit to satisfy the requirements of this Section must also provide to the administrative authority evidence of the establishment of a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the administrative authority will be deposited by the issuing institution directly into the standby trust fund. The wording of the standby trust fund shall be as specified in LAC 33:VII.1399.Appendix D; the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

3. The letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, issuing institution, and date, and providing the following information:

a. agency interest number;

b. solid waste identification number;

c. site name;

d. facility name;

e. facility permit number; and

f. the amount of funds assured for liability coverage of the facility by the letter of credit.

4. The letter of credit must be irrevocable and issued for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the permit holder and the Office of Environmental Services by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the permit holder and the administrative authority receive the notice, as evidenced by the return receipts.

5. The letter of credit must be issued in an amount at least equal to the current closure and post-closure cost estimates.

6. Whenever the current cost estimates increase to an amount greater than the amount of the credit, the permit holder, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure and post-closure cost estimates upon written approval of the administrative authority.

7. Following a determination by the administrative authority that the permit holder has failed to perform final closure or post-closure in accordance with the closure plan and other permit requirements when required to do so, the administrative authority may draw on the letter of credit.

8. The wording of the letter of credit shall be identical to the wording in LAC 33:VII.1399.Appendix G, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

G. Insurance. A permit holder or applicant may satisfy the requirements of this Section by obtaining insurance that conforms to the following requirements and submitting a certificate of such insurance to the Office of Environmental Services.

1. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess-lines or surplus-lines insurer in one or more states, and authorized to transact insurance business in Louisiana.

2. The insurance policy must be issued for a face amount at least equal to the current closure and post-closure cost estimates.

3. The term *face amount* means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

4. The insurance policy must guarantee that funds will be available to close the facility and provide post-closure care once final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds up to an amount equal to the face amount of the policy, upon the direction of the administrative authority, to such party or parties as the administrative authority specifies.

5. After beginning final closure, a permit holder or any other person authorized by the permit holder to perform closure or post-closure may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the Office of Environmental Services. Within 60 days after receiving such bills, the administrative authority will determine whether the expenditures are in accordance with the closure plan or otherwise justified, and if so, he or she shall instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

6. The permit holder must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the permit holder.

7. Each policy must contain a provision allowing assignment of the policy to a successor permit holder. Such assignment may be conditional upon consent of the insurer, provided consent is not unreasonably refused.

8. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the permit holder and the Office of Environmental Services. Cancellation, termination, or failure to renew may not occur, however, before 120 days have elapsed, beginning on the date that both the administrative authority and the permit holder receive notice of cancellation, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration:

a. the administrative authority deems the facility to be abandoned;

b. the permit is terminated or revoked or a new permit is denied;

c. closure and/or post-closure is ordered;

d. the permit holder is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

e. the premium due is paid.

9. Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the

permit holder, within 60 days after the increase, must either increase the face amount to at least equal to the current closure and post-closure cost estimates and submit evidence of such increase to the Office of Environmental Services or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure and post-closure cost estimates following written approval by the administrative authority.

10. The wording of the certificate of insurance shall be identical to the wording in LAC 33:VII.1399.Appendix H, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

H. Financial Test. A permit holder, applicant, or guarantor of the permit holder or applicant, which will be responsible for the financial obligations, may satisfy the requirements of this Section by demonstrating that he or she passes a financial test as specified in this Subsection. The assets of the guarantor of the applicant or permit holder shall not be used to determine whether the applicant or permit holder satisfies the financial test, unless the guarantor has supplied a corporate guarantee as outlined in this Subsection.

1. To pass this test, the permit holder, applicant, or guarantor of the permit holder or applicant, must meet the criteria of one of the following provisions.

a. The permit holder, applicant, or guarantor of the permit holder or applicant must have:

i. tangible net worth of at least six times the sum of the current closure and post-closure cost estimates to be demonstrated by this test;

ii. tangible net worth of at least $10 million; and

iii. assets in the United States amounting to either at least 90 percent of his or her total assets, or at least six times the sum of the current closure and post-closure cost estimates, to be demonstrated by this test.

b. The permit holder, applicant, or guarantor of the permit holder or applicant shall have:

i. a ratio of less than 1.5 comparing total liabilities to net worth;

ii. tangible net worth of at least $10 million; and

iii. assets in the United States amounting to either 90 percent of his or her total assets, or at least six times the sum of the current closure and post-closure cost estimates, to be demonstrated by this test.

c. The permit holder, applicant, or guarantor of the permit holder or applicant must have:

i. a current rating for his or her most recent bond issuance of AAA, AA, A, or BBB, as issued by *Standard and Poor's*, or Aaa, Aa, or Baa, as issued by *Moody's*;

ii. tangible net worth of at least $10 million; and

iii. assets in the United States amounting to either 90 percent of his or her total assets or at least six times the sum of the current closure and post-closure cost estimates, to be demonstrated by this test.

d. The permit holder, applicant or guarantor of the permit holder or applicant shall have:

i. a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion, and amortization, minus $10 million, to total liabilities;

ii. tangible net worth of at least $10 million; and

iii. assets in the United States amounting to either 90 percent of his or her total assets, or at least six times the sum of the current closure and post-closure cost estimates, to be demonstrated by this test.

2. To demonstrate that he or she meets this test, the permit holder, applicant, or guarantor of the permit holder or applicant must submit the following three items to the Office of Environmental Services:

a. a letter signed by the chief financial officer of the permit holder, applicant, or guarantor demonstrating and certifying satisfaction of the criteria in Paragraph H.1 of this Section and including the information required by Paragraph H.4 of this Section. If the financial test is provided to demonstrate both assurance for closure and/or post-closure care and liability coverage, a single letter to cover both forms of financial responsibility is required;

b. a copy of the independent certified public accountant's report on the financial statements of the permit holder, applicant, or guarantor of the permit holder or applicant for the latest completed fiscal year; and

c. If the chief financial officer's letter providing evidence of financial assurance includes financial data that are different from the data in the audited financial statements in Subsection H.2.b of this Section, a special report from the independent certified public accountant of the permit holder, applicant, or guarantor of the permit holder or applicant shall be submitted. The special report shall be based on an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and reasons for any differences.

3. The administrative authority may disallow use of this test on the basis of the opinion expressed by the independent CPA in his report on qualifications based on the financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The administrative authority will evaluate other qualifications on an individual basis. The administrative authority may disallow the use of this test on the basis of the accessibility of the assets of the guarantor, permit holder, or applicant. The permit holder, applicant, or guarantor must provide alternate financial assurance, as specified in this Section, within 30 days after notification of disallowance.

4. The permit holder, applicant, or guarantor of the permit holder or applicant shall provide to the Office of Environmental Services a letter from the chief financial officer, the wording of which shall be identical to the wording in LAC 33:VII.1399.Appendix I, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted. The letter shall list all the current cost estimates, in state or out of state, covered by a financial test, including, but not limited to, cost estimates required for solid waste management facilities under this Section, cost estimates required for UIC facilities under 40 CFR Part 144, if applicable, cost estimates required for petroleum underground storage tank facilities under 40 CFR Part 280, if applicable, cost estimates required for PCB storage facilities under 40 CFR Part 761, if applicable, and cost estimates required for hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, if applicable.:

5. For the purposes of this Section, the phrase *tangible net worth* shall mean the tangible assets that remain after liabilities have been deducted; such assets would not include intangibles such as good will and rights to patents or royalties.

6. The phrase *current closure and post-closure cost estimates*, as used in Paragraph H.1 of this Section, includes the cost estimates required to be shown in Clause H.1.a.i of this Section.

7. After initial submission of the items specified in Paragraph H.2 of this Section, the permit holder, applicant, or guarantor of the permit holder or applicant must send updated information to the Office of Environmental Services within 90 days after the close of each succeeding fiscal year. This information must include all three items specified in Paragraph H.2 and the adjusted item specified in Subparagraph A.2.c of this Section.

8. The administrative authority may, on the basis of a reasonable belief that the permit holder, applicant, or guarantor of the permit holder or applicant may no longer meet the requirements of this Subsection, require reports of financial condition at any time in addition to those specified in Paragraph H.2 of this Section. If the administrative authority finds, on the basis of such reports or other information, that the permit holder, applicant, or guarantor of the permit holder or applicant no longer meets the requirements of Paragraph H.2 of this Section, the permit holder or applicant, or guarantor of the permit holder or applicant must provide alternate financial assurance as specified in this Section within 30 days after notification of such a finding.

9. A permit holder or applicant may meet the requirements of this Subsection for closure and/or post-closure by obtaining a written guarantee, hereafter referred to as a "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the permit holder or applicant for the solid waste facility or facilities to be covered by the guarantee, a firm whose parent corporation is also the parent corporation of the permit holder or applicant, or a firm with a “substantial business relationship” with the permit holder or applicant. The guarantor must meet the requirements and submit all information required for permit holders or applicants in Paragraphs H.1-8 of this Section and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in Paragraphs H.2 and 4 of this Section. The wording of the corporate guarantee must be identical to the wording in LAC 33:VII.1399.Appendix J, except that instructions in brackets are to be replaced with the relevant information and the brackets removed. The terms of the corporate guarantee must be in an authentic act signed and sworn by an authorized representative of the guarantor before a notary public and must provide that:

a. the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in this Section;

b. the guarantor is the direct or higher-tier parent corporation of the permit holder or applicant of the solid waste facility or facilities to be covered by the guarantee, a firm whose parent corporation is also the parent corporation of the permit holder or applicant, or a firm with a “substantial business relationship” with the permit holder or applicant, and the guarantee extends to certain facilities;

c. *closure plans*, as used in the guarantee, refers to the plans maintained as required by the Louisiana solid waste rules and regulations for the closure and post-closure care of facilities, as identified in the guarantee;

d. for value received from the permit holder or applicant, the guarantor guarantees to the Louisiana Department of Environmental Quality that the permit holder or applicant will perform closure, post-closure care, or closure and post-closure care of the facility or facilities listed in the guarantee, in accordance with the closure plan and other permit or regulatory requirements whenever required to do so. In the event that the permit holder or applicant fails to perform as specified in the closure plan, the guarantor shall do so or establish a trust fund as specified in Subparagraph A.2.d of this Section, in the name of the permit holder or applicant, in the amount of the current closure or post-closure cost estimates or as specified in Paragraph A.2 of this Section;

e. the guarantor agrees that if, at the end of any fiscal year before termination of the guarantee, the guarantor fails to meet the financial test criteria, the guarantor shall send within 90 days after the end of the fiscal year, by certified mail, notice to the Office of Environmental Services and to the permit holder or applicant that he intends to provide alternative financial assurance as specified in this Section, in the name of the permit holder or applicant, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the permit holder or applicant has done so;

f. the guarantor agrees to notify the Office of Environmental Services by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S.

Code, naming the guarantor as debtor, within 10 days after commencement of the proceeding;

g. the guarantor agrees that within 30 days after being notified by the administrative authority of a determination that the guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in this Section in the name of the permit holder or applicant, unless the permit holder or applicant has done so;

h. the guarantor agrees to remain bound under the guarantee, notwithstanding any or all of the following: amendment or modification of the closure plan, amendment or modification of the permit, extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the permit holder or applicant in accordance with these regulations;

i. the guarantor agrees to remain bound under the guarantee for as long as the permit holder must comply with the applicable financial assurance requirements of this Section, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Environmental Services and the permit holder or applicant. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the permit holder or applicant, as evidenced by the return receipts;

j. the guarantor agrees that if the permit holder or applicant fails to provide alternative financial assurance as specified in this Section, and to obtain written approval of such assurance from the administrative authority within 60 days after the administrative authority receives the guarantor's notice of cancellation, the guarantor shall provide such alternate financial assurance in the name of the permit holder or applicant; and

k. the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the permit holder. The guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit.

I. Local Government Financial Test. An owner or operator that satisfies the requirements of Paragraphs I.1-3 of this Section may demonstrate financial assurance up to the amount specified in Paragraph I.4 of this Section.

1. Financial Component

a. The permit holder or applicant must satisfy the following conditions, as applicable:

i. if the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by *Moody's*, or AAA, AA, A, or BBB, as issued by *Standard and Poor's*, on all such general obligation bonds; or

ii. the permit holder or applicant must satisfy the ratio of cash plus marketable securities to total expenditures being greater than or equal to 0.05 and the ratio of annual debt service to total expenditures less than or equal to 0.20 based on the owner or operator's most recent audited annual financial statement.

b. The permit holder or applicant must prepare its financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have its financial statements audited by an independent certified public accountant (or appropriate state agency).

c. A local government is not eligible to assure its obligations under this Subsection if it:

i. is currently in default on any outstanding general obligation bonds; or

ii. has any outstanding general obligation bonds rated lower than Baa as issued by *Moody's* or BBB as issued by *Standard and Poor's*; or

iii. operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or

iv. receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate state agency) auditing its financial statement as required under Subparagraph I.1.b of this Section. The administrative authority may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the administrative authority deems the qualification insufficient to warrant disallowance of use of the test.

d. The following terms used in this Subsection are defined as follows:

i. *Deficit*—total annual revenues minus total annual expenditures.

ii. *Total Revenues*—revenues from all taxes and fees, not including the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

iii. *Total Expenditures*—all expenditures, excluding capital outlays and debt repayment.

iv. *Cash Plus Marketable Securities*—all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

v. *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

2. Public Notice Component. The local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) after the effective date of this Section or prior to the initial receipt of waste at the facility, whichever is later. Disclosure must include the nature and source of closure and post-closure

care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. For the first year the financial test is used to assure costs at a particular facility, the reference may be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with *Governmental Accounting Standards Board Statement 18* assures compliance with this public notice component.

3. Recordkeeping and Reporting Requirements

a. The local government permit holder or applicant must place the following items in the facility's operating record:

i. a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in Paragraph I.4 of this Section. It must provide evidence that the local government meets the conditions of Subparagraphs I.1.a, b, and c of this Section, and certify that the local government meets the conditions of Subparagraphs I.1.a, b, and c and Paragraphs I.2 and 4 of this Section;

ii. the local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years, unaudited statements, which may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

iii. a report to the local government from the local government's independent certified public accountant or the appropriate state agency based on performing an agreed upon procedures engagement relative to the financial ratios required by Clause I.1.a.ii of this Section, if applicable, and the requirements of Subparagraph I.1.b and Clauses I.1.c.iii and iv of this Section. The certified public accountant or state agency's report shall state the procedures performed and the certified public accountant or state agency's findings; and

iv. a copy of the comprehensive annual financial report (CAFR) used to comply with Paragraph I.2 of this Section (certification that the requirements of *Governmental Accounting Standards Board Statement 18* have been met).

b. The items required in Subparagraph I.3.a of this Section must be placed in the facility operating record as follows:

i. in the case of closure and post-closure care, either before the effective date of this Section, which is April 9, 1997, or prior to the initial receipt of waste at the facility, whichever is later; or

ii. in the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of LAC 33:VII.805.F.

c. After the initial placement of the items in the facility's operating record, the local government permit holder or applicant must update the information and place the updated information in the operating record within 180 days following the close of the permit holder or applicant’s fiscal year.

d. The local government permit holder or applicant is no longer required to meet the requirements of Paragraph I.3 of this Section when:

i. the permit holder or applicant substitutes alternate financial assurance, as specified in this Section; or

ii. the owner or operator is released from the requirements of this Chapter in accordance with Subsection A of this Section.

e. A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Office of Environmental Services that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

f. The administrative authority, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the administrative authority finds, on the basis of such reports or other information, that the owner or operator no longer meets the local government financial test, the local government must provide alternate financial assurance in accordance with this Section.

4. Calculation of Costs to be Assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under this Subsection is determined as follows.

a. If the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.

b. If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities

under 40 CFR Parts 264 and 265, or corresponding state programs, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this Subsection. The total that may be assured must not exceed 43 percent of the local government's total annual revenue.

c. The owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in Subparagraphs I.4.a and b of this Section.

J. Local Government Guarantee. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by LAC 33:VII.1301 and this Section, by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in Subsection I of this Section, and must comply with the terms of a written guarantee.

1. Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F. The guarantee must provide that:

a. if the owner or operator fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

i. perform, or pay a third party to perform closure, post-closure care, and/or corrective action as required; or

ii. establish a fully funded trust fund as specified in Subsection C of this Section in the name of the owner or operator;

b. the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Office of Environmental Services. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the administrative authority, as evidenced by the return receipts; and

c. if a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the administrative authority, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the Office of Environmental Services. If the owner or operator fails to provide alternate financial assurance within the 90-day period, then the owner or operator must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services.

2. Recordkeeping and Reporting

a. The owner or operator must place a certified copy of the guarantee, along with the items required under Paragraph I.3 of this Section, into the facility's operating record before the initial receipt of waste or before the effective date of this Section, whichever is later, in the case of closure or post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of LAC 33:VII.805.F.

b. The owner or operator is no longer required to maintain the items specified in Paragraph J.2 of this Section when:

i. the owner or operator substitutes alternate financial assurance as specified in this Section; or

ii. the owner or operator is released from the requirements of this Section in accordance with this Chapter.

c. If a local government guarantor no longer meets the requirements of Subsection I of this Section, the owner or operator must, within 90 days, obtain alternate assurance, place evidence of the alternate assurance in the facility operating record, and notify the Office of Environmental Services. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

K. Use of Multiple Mechanisms. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, in accordance with this Chapter, by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments. The mechanisms must be as specified in Subsections C-J of this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and/or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

L. Providing alternate financial assurance as specified in this Section does not constitute a modification and is not subject to LAC 33:VII.517.

M. Discounting. The administrative authority may allow discounting of closure and post-closure cost estimates in Subsection A of this Section, and/or corrective action costs in LAC 33:VII.1301.A, up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

1. the administrative authority determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a professional engineer to the Office of Environmental Services so stating;

2. the state finds the facility in compliance with applicable and appropriate permit conditions;

3. the administrative authority determines that the closure date is certain and the owner or operator certifies that there are no foreseeable factors that will change the estimate of site life; and

4. discounted cost estimates are adjusted annually to reflect inflation and years of remaining life.

N. When the permit holder is the state or federal government, the facility is exempt from the requirements of this Section.

O. The permit application should include a description of the financial structure of the operating unit including capital structure, principal ownership, and insurance coverage for personal injury and property damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30: 2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1090 (June 2007), amended LR 33:2154 (October 2007), LR 36:2555 (November 2010), LR 37:3254 (November 2011).

## §1305. Financial Responsibility for Corrective Action for Type II Landfills

A. A permit holder of a Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must provide to the Office of Environmental Services a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under LAC 33:VII.805. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.

1. The permit holder must provide an annual adjustment of the estimate for inflation to the Office of Environmental Services until the corrective action program is completed in accordance with LAC 33:VII.805.

2. The permit holder must provide an increased corrective action cost estimate to the Office of Environmental Services and the amount of financial assurance provided under Subsection B of this Section if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

3. Subject to approval of the administrative authority, the permit holder shall provide a reduced corrective action cost estimate to the Office of Environmental Services and the amount of financial assurance provided under Subsection B of this Section if the cost estimate exceeds the maximum remaining costs of corrective action. The permit holder must provide the Office of Environmental Services justification for the reduction of the corrective action cost estimate and the revised amount of financial assurance.

B. The permit holder of each Type II landfill required to undertake a corrective action program under LAC 33:VII.805 must establish, in a manner in accordance with LAC 33:VII.1303, financial assurance for the most recent corrective action program. The financial assurance must be provided within 120 days after the selection of the corrective action remedy in LAC 33:VII.805.F. The permit holder must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with LAC 33:VII.805.G.8-10. For the purpose of corrective action financial assurance only the words "corrective action" shall be substituted for the words "closure" or "post-closure" throughout this Section.

C. When the permit holder is the state or federal government, the facility is exempt from the requirements of this Section.

D. The language of the financial assurance mechanisms listed in this Section shall ensure that the instruments satisfy the following criteria:

1. The financial assurance mechanisms shall ensure that the amount of funds assured is sufficient to cover the costs of corrective action for known releases when needed.

2. The financial assurance mechanisms shall ensure that funds will be available in a timely fashion when needed.

3. The financial assurance mechanisms shall be legally valid, binding, and enforceable under state and federal law.

E. A financial assurance mechanism may be cancelled or terminated only if alternate financial assurance is substituted as specified in the appropriate Section or if the permit holder or applicant is no longer required to demonstrate financial assurance in accordance with these regulations.

F. The permit application shall include a description of the financial structure of the operating unit including capital structure, principal ownership, and insurance coverage for personal injury and property damage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30: 2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1098 (June 2007), amended LR 33:2156 (October 2007), LR 37:3258 (November 2011).

## §1307. Incapacity of Permit Holders, Applicants, or Financial Institutions

A. A permit holder or applicant shall notify the Office of Environmental Services by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the permit holder or applicant as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in LAC 33:VII.1303.H.9 shall make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (see LAC 33:VII.1399.Appendix J).

B. A permit holder or applicant who fulfills the requirements of LAC 33:VII.1303 or 1305 by obtaining a trust fund, financial guarantee bond, performance bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the financial guarantee bond, performance bond, letter of credit,

or insurance policy to issue such instruments. The permit holder or applicant shall establish other financial assurance within 60 days after such an event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:3258 (November 2011).

## §1399. Financial Documents—Appendices A, B, C, D, E, F, G, H, I, and J

A. Reserved.

B. Reserved.

C. Appendix C

SOLID WASTE FACILITY
IRREVOCABLE LETTER OF CREDIT
(For Liability Coverage during Operation)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services, Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [number] at the request and for the account of [permit holder's or applicant's name and address] for its [list facility name, site name, agency interest number, site identification number, and facility permit number] at [location], Louisiana, in favor of any governmental body, person, or other entity for any sum or sums up to the aggregate amount of U.S. dollars $[amount] upon presentation of:

1. A final judgment issued by a competent court of law in favor of a governmental body, person, or other entity and against [permit holder's or applicant's name] for sudden and accidental occurrences for claims arising out of injury to persons or property due to the operation of the solid waste site at the [name of permit holder or applicant] at [site location] as set forth in LAC 33:VII.1301.

2. A sight draft bearing reference to the Letter of Credit No. [number] drawn by the governmental body, person, or other entity, in whose favor the judgment has been rendered as evidenced by documentary requirement in Paragraph 1.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least 1 year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"], shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1399.Appendix C, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[Date]

D. Appendix D

SOLID WASTE FACILITY
TRUST AGREEMENT/STANDBY TRUST AGREEMENT

[Facility name, agency interest number, and permit number]

This Trust Agreement, the "Agreement," is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a solid waste processing or disposal facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement:

(a). The term Grantor means the permit holder or applicant who enters into this Agreement and any successors or assigns of the Grantor.

(b). The term Trustee means the Trustee who enters into this Agreement and any successor trustee.

(c). The term Secretary means the Secretary of the Louisiana Department of Environmental Quality.

(d). The term Administrative Authority means the Secretary or his designee or the appropriate assistant secretary or his designee.

SECTION 2. IDENTIFICATION OF FACILITIES AND COST ESTIMATES

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A. [On Schedule A, list the site identification number, site name, facility name, facility permit number, and the annual aggregate amount of liability coverage or current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Louisiana Department of Environmental Quality. The Grantor and the Trustee intend that no third party shall have access to the Fund, except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. [Note: Standby Trust Agreements need not be funded at the time of execution. In the case of Standby Trust Agreements, Schedule B should be blank except for a statement that the Agreement is not presently funded, but shall be funded by the financial

assurance document used by the Grantor in accordance with the terms of that document.] Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the administrative authority.

SECTION 4. PAYMENT FOR CLOSURE AND/OR POST-CLOSURE CARE OR LIABILITY COVERAGE

The Trustee shall make payments from the Fund as the administrative authority shall direct, in writing, to provide for the payment of the costs of [liability claims, closure and/or post-closure] care of the facility covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the administrative authority from the Fund for [liability claims, closure and/or post-closure] expenditures in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

SECTION 5. PAYMENTS COMPRISED BY THE FUND

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines, which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims, except that:

(a). Securities or other obligations of the Grantor, or any owner of the [facility or facilities] or any of their affiliates, as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b). The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c). The Trustee is authorized to hold cash awaiting investment or distribution, uninvested for a reasonable time and without liability for the payment of interest thereon.

SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized, at its discretion:

(a). To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b). To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, or underwritten, or one to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares at its discretion.

SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a). To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b). To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c). To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

(d). To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e). To compromise or otherwise adjust all claims in favor of, or against, the Fund.

SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and other proper charges and disbursements of the Trustee, shall be paid from the Fund.

SECTION 10. ANNUAL VALUATION

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the administrative authority a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee, within 90 days after the statement has been furnished to the Grantor and the administrative authority, shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

SECTION 11. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

SECTION 12. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

SECTION 13. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor

trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall, in writing, specify to the Grantor, the administrative authority, and the present Trustee, by certified mail 10 days before such change becomes effective, the date on which it assumes administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

SECTION 14. INSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons designated in the attached Exhibit A or such other persons as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the administrative authority to the Trustee shall be in writing and signed by the administrative authority. The Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or termination of the authority of any person to act on behalf of the Grantor or administrative authority hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or administrative authority, except as provided for herein.

SECTION 15. NOTICE OF NONPAYMENT

The Trustee shall notify the Grantor and the administrative authority, by certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument, in writing, executed by the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist.

SECTION 17. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

SECTION 18. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any direction by the Grantor or the administrative authority issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all reasonable expenses incurred in its defense in the event that the Grantor fails to provide such defense.

SECTION 19. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the state of Louisiana.

SECTION 20. INTERPRETATION

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized [and their corporate seals to be hereunto affixed] and attested to as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in LAC 33:VII.1399.Appendix D, on the date first written above.

WITNESSES: GRANTOR:
_____ _____
_____ By:_____
Its:_____
[Seal]

TRUSTEE:
_____
By: _____
Its:_____
[Seal]

THUS DONE AND PASSED in my office in _____, on the _____ day of _____, 20 _____, in the presence of _____ and _____, competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after reading the whole.

_____
Notary Public

[Example of Formal Certification of Acknowledgement]

STATE OF LOUISIANA
PARISH OF _____

BE IT KNOWN, that on this _____ day of _____, 20__, before me, the undersigned Notary Public, duly commissioned and qualified within the State and Parish aforesaid, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared _____, to me well known, who declared and acknowledged that he had signed and executed the foregoing instrument as his act and deed, and as the act and deed of the _____, a corporation, for the consideration, uses, and purposes and on terms and conditions therein set forth.

And the said appearer, being by me first duly sworn, did depose and say that he is the _____ of said corporation and that he signed and executed said instrument in his said capacity, and under authority of the Board of Directors of said corporation.

Thus done and passed in the State and Parish aforesaid, on the day and date first hereinabove written, and in the presence of _____ and _____, competent witnesses, who have hereunto subscribed their names as such, together with said appearer and me, said authority, after due reading of the whole.

WITNESSES:
_____
_____

NOTARY PUBLIC:
_____

## E. Appendix E

SOLID WASTE FACILITY
FINANCIAL GUARANTEE BOND

[Facility name, agency interest number, and permit number]

Date bond was executed: _____

Effective date:_____
Principal: [legal name and business address of permit holder or applicant]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation:_____
Surety: [name and business address]
[facility name, site name, agency interest number, site identification number, facility permit number, and current closure and/or post-closure amount(s) for each facility guaranteed by this bond]
Total penal sum of bond: $_____
Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as co sureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code*, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

NOW THEREFORE, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of the facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

OR, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to close is issued by the administrative authority or a court of competent jurisdiction,

OR, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.1303 and obtain written approval from the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification or amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303, and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana, and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1399.Appendix E, effective on the date this bond was executed.

PRINCIPAL
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETIES
[Name and address]
State of incorporation: _____
Liability limit: $_____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[This information must be provided for each cosurety]
Bond Premium: $_____

## F. Appendix F

SOLID WASTE FACILITY
PERFORMANCE BOND
[Facility name, agency interest number, and permit number]

Date bond was executed:_____
Effective date: _____
Principal: [legal name and business address of permit holder or applicant]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation:_____
Surety: [name(s) and business address(es)]
[facility name, site name, agency interest number, site identification number, facility permit number, facility address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond (indicate closure and/or post-closure costs separately)]
Total penal sum of bond: $_____
Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety hereto are firmly bound to the Louisiana Department of Environmental Quality in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations

acting as cosureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., to have a permit in order to own or operate the solid waste facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure and/or post-closure care, as a condition of the permit; and

WHEREAS, said Principal shall establish a standby trust fund as is required by the *Louisiana Administrative Code*, Title 33, Part VII, when a surety bond is used to provide such financial assurance;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

AND, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33:VII.1303 and obtain written approval of the administrative authority of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of LAC 33:Part.VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has been found in violation of the post-closure requirements of LAC 33:Part.VII, or of its permit for the facility for which this bond guarantees performance of post-closure, the Surety shall either perform post-closure in accordance with the closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33:VII.1303 and obtain written approval of such assurance from the administrative authority during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the Surety shall place funds in the amount guaranteed for the facility into the standby trust fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permit, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the administrative authority. Cancellation shall not occur before 120 days have lapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

Principal and Surety hereby agree to adjust the penal sum of the bond yearly in accordance with LAC 33:VII.1303 and the conditions of the solid waste facility permit so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase or decrease without the written permission of the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in LAC 33:VII.1399.Appendix F, effective on the date this bond was executed.

PRINCIPAL
[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

CORPORATE SURETY
[Name and address]
State of incorporation: _____
Liability limit: $_____
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]
[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]
Bond premium: $_____

## G. Appendix G

SOLID WASTE FACILITY
IRREVOCABLE LETTER OF CREDIT
(For Closure and/or Post-Closure Care)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

Attention: Office of Environmental Services,
Waste Permits Division

RE: [Facility name, agency interest number, and permit number]

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit No. [number] in favor of the Department of

Environmental Quality of the state of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the [closure and/or post-closure] fund for its [list facility name, site name, agency interest number, site identification number, facility permit number] at [location], Louisiana, for any sum or sums up to the aggregate amount of U.S. dollars $[amount] upon presentation of:

1. A sight draft, bearing reference to the Letter of Credit No. [number] drawn by the administrative authority, together with;

2. A statement, signed by the administrative authority, declaring that the amount of the draft is payable into the standby trust fund pursuant to the Louisiana Environmental Quality Act, R.S. 30:2001 et seq.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [date] and on each successive expiration date thereafter, unless, at least 120 days before the then-current expiration date, we notify both the administrative authority and [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then-current expiration date. In the event that we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder or applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except to the extent otherwise expressly agreed to, the [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"], shall apply to this Letter of Credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:VII.1399.Appendix G, effective on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution(s)]
[Date]

## H. Appendix H

SOLID WASTE FACILITY
CERTIFICATE OF INSURANCE FOR CLOSURE AND/OR POST-CLOSURE CARE

[Facility name, agency interest number, and permit number]

Name and Address of Insurer: _____
(hereinafter called the "Insurer")
Name and Address of Insured: _____
(hereinafter called the "Insured") (Note: Insured must be the permit holder or applicant)
Facilities covered: [list the facility name, site name, agency interest number, site identification number, facility permit number, facility address, and amount of insurance for closure and/or post-closure care] (These amounts for all facilities must total the face amount shown below.)
Face Amount: _____
Policy Number: _____
Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure and/or post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects to the requirements of LAC 33:VII.1303, as applicable, and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the administrative authority, the Insurer agrees to furnish to the administrative authority a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the Insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana and that the wording of this certificate is identical to the wording specified in LAC 33:VII.1399.Appendix H, effective on the date shown immediately below.

[Authorized signature of Insurer]
[Name of person signing]
[Title of person signing]

Signature of witness or notary:_____
[Date]

## I. Appendix I

SOLID WASTE FACILITY
LETTER FROM THE CHIEF FINANCIAL OFFICER
(Closure and/or Post-Closure)

Secretary
Louisiana Department of Environmental Quality
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
Attention: Office of Environmental Services, Waste Permits Division
RE:[Facility name, agency interest number, and permit number]
Dear Sir:

I am the chief financial officer of [name and address of firm, which may be the permit holder, applicant, or parent corporation of the permit holder or applicant]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "closure," and/or "post-closure," as applicable] as specified in [insert "LAC 33:VII.1303," or "LAC 33:VII.1301 and 1303"].

[Fill out the following three paragraphs regarding facilities and associated closure and post-closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the facility name, site name, agency interest number, site identification number, and facility permit number.]

1. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is guaranteed and demonstrated through a financial test similar to that specified in LAC 33:VII.1303 or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

2. This firm guarantees through a corporate guarantee similar to that specified in [insert "LAC 33:VII.1303," or "LAC 33:VII.1301 and 1303"], for [insert "closure care," "post-closure care," or "closure and post-closure care"] of the following facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

3. This firm is the permit holder or applicant of the following facilities, whether in Louisiana or not, for which financial assurance for closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:VII.1301 and/or 1303. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

**Part A. Liability Coverage for Accidental Occurrences**
[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

| **Alternative I** | | |
|---|---|---|
| [1]1. Amount of annual aggregate liability coverage to be demonstrated | $ | |
| *2. Current assets | $ | |
| *3. Current liabilities | $ | |
| *4. Tangible net worth | $ | |
| *5. If less than 90 percent of assets are located in the U.S., give total U.S. assets | $ | |
| | YES | NO |
| 6. Is line 4 at least $10 million? | | |
| 7. Is line 4 at least 6 times line 1? | | |
| *8. Are at least 90 percent of assets located in the U.S.? If not, complete line 9. | | |
| 9. Is line 4 at least 6 times line 1? | | |

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

| **Alternative II** | | |
|---|---|---|
| [1]1. Amount of annual aggregate liability coverage to be demonstrated | $ | |
| 2. Current bond rating of most recent issuance of this firm and name of rating service | | |
| 3. Date of issuance of bond | | |
| 4. Date of maturity of bond | | |
| *5. Tangible net worth | $ | |
| *6. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.) | $ | |
| | YES | NO |
| 7. Is line 5 at least $10 million? | | |
| 8. Is line 5 at least 6 times line 1? | | |
| *9. Are at least 90 percent of assets located in the U.S.? If not, complete line 10. | | |
| 10. Is line 6 at least 6 times lines 1? | | |

[Fill in Part B if you are using the financial test to demonstrate assurance only for closure and/or post-closure care.]

**Part B. Closure and/or Post-Closure**
[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

| **Alternative I** | | |
|---|---|---|
| 1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above) | $ | |
| *2. Tangible net worth | $ | |
| *3. Net worth | $ | |
| *4. Current Assets | $ | |
| *5. Current liabilities | $ | |
| *6. The sum of net income plus depreciation, depletion, and amortization | $ | |
| *7. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.) | $ | |
| | YES | NO |
| 8. Is line 2 at least $10 million? | | |
| 9. Is line 2 at least 6 times line 1? | | |
| *10. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 11. | | |
| 11. Is line 7 at least 6 times line 1? | | |

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

| **Alternative II** | | |
|---|---|---|
| 1. Sum of current closure and post-closure cost estimates (total of all cost estimates shown above) | $ | |
| 2. Current bond rating of most recent issuance of this firm and name of rating service | | |
| 3. Date of issuance of bond | | |
| 4. Date of maturity of bond | | |
| *5. Tangible net worth (If any portion of the closure and/or post-closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line.) | $ | |
| *6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.) | $ | |
| | YES | NO |
| 7. Is line 5 at least $10 million? | | |
| 8. Is line 5 at least 6 times line 1? | | |
| 9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10. | | |
| 10. Is line 6 at least 6 times line 1? | | |

[Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage, closure, and/or post-closure care.]

**Part C. Liability Coverage, Closure, and/or Post-Closure**
[Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]

| **Alternative I** | |
|---|---|
| 1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above) | $ |
| [1]2. Amount of annual aggregate liability coverage to be demonstrated | $ |
| 3. Sum of lines 1 and 2 | $ |

| [Fill in Part C if you are using the financial test to demonstrate assurance for liability coverage, closure, and/or post-closure care.] | | |
|---|---|---|
| **Part C. Liability Coverage, Closure, and/or Post-Closure** [Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.] | | |
| **Alternative I** | | |
| *4. Total liabilities (If any portion of your closure and/or post-closure cost estimates is included in your "total liabilities" in your firm's financial statements, you may deduct that portion from this line and add that amount to lines 5 and 6.) | $ | |
| *5. Tangible net worth | $ | |
| *6. Net worth | $ | |
| *7. Current assets | $ | |
| *8. Current liabilities | $ | |
| *9. The sum of net income plus depreciation, depletion, and amortization | $ | |
| *10. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.) | $ | |
| | YES | NO |
| 11. Is line 5 at least $10 million? | | |
| 12. Is line 5 at least 6 times line 3? | | |
| *13. Are at least 90 percent of assets located in the U.S.? If not, complete line 14. | | |
| 14. Is line 10 at least 6 times line 3? | | |

| [Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.] | | |
|---|---|---|
| **Alternative II** | | |
| 1. Sum of current closure and/or post-closure cost estimates (total of all cost estimates listed above) | $ | |
| [1]2. Amount of annual aggregate liability coverage to be demonstrated | $ | |
| 3. Sum of lines 1 and 2 | $ | |
| 4. Current bond rating of most recent issuance of this firm and name of rating service | | |
| 5. Date of issuance of bond | | |
| 6. Date of maturity of bond | | |
| *7. Tangible net worth (If any portion of the closure and/or post-closure cost estimates is included in the "total liabilities" in your firm's financial statements, you may add that portion to this line.) | $ | |
| *8. Total assets in U.S. (required only if less than 90 percent of assets are located in the U.S.) | $ | |
| | YES | NO |
| 9. Is line 7 at least $10 million? | | |
| 10. Is line 7 at least 6 times line 3? | | |
| *11. Are at least 90 percent of assets located in the U.S.? If not, complete line 12. | | |
| 12. Is line 8 at least 6 times line 3? | | |
| [1]Indicate total amount of annual aggregate liability coverage for all covered facilities. | | |

(The following is to be completed by all firms providing the financial test.)

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:VII.1399.Appendix I.

[Signature of Chief Financial Officer for the Firm]
[Typed Name of Chief Financial Officer]
[Title]
[Date]

## J. Appendix J

SOLID WASTE FACILITY
CORPORATE GUARANTEE FOR
CLOSURE
AND/OR POST-CLOSURE CARE

[Facility name, agency interest number, and permit number]

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the permit holder or applicant] of [business address].

Recitals

1. The guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H.9.

2. [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or "applicant"] for the following facility covered by this guarantee: [List the facility name, site name, agency interest number, site identification number, and facility permit number. Indicate for each facility whether guarantee is for liability coverage, closure, and/or post-closure and the amount of annual aggregate liability coverage, closure, and/or post-closure costs covered by the guarantee.]

[Fill in Paragraphs 3 and 4 below if the guarantee is for closure and/or post-closure.]

3. *Closure plans*, as used below, refers to the plans maintained as required by LAC 33:Part.VII, for the closure and/or post-closure care of the facility identified in Paragraph 2 above.

4. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to the Louisiana Department of Environmental Quality that in the event that [insert "permit holder" or "applicant"] fails to perform [insert "closure," "post-closure care," or "closure and post-closure care"] of the above facility in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor shall do so or shall establish a trust fund as specified in LAC 33:VII.1303.C, as applicable, in the name of [insert "permit holder" or "applicant"] in the amount of the current closure and/or post-closure estimates, as specified in LAC 33:VII.1303.

[Fill in Paragraph 5 below if the guarantee is for liability coverage.]

5. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by sudden and accidental occurrences arising from operations of the facility covered by this guarantee that in the event that [insert "permit holder" or "applicant"] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences arising from the operation of the above-named facilities, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s) up to the coverage limits identified above.

6. The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the administrative authority and to [insert "permit holder" or "applicant"] that he intends to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301 " and/or "LAC 33:VII.1303"], as applicable, in the name of the [insert "permit holder" or "applicant"], within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [insert "permit holder" or "applicant"] has done so.

7. The guarantor agrees to notify the administrative authority, by certified mail, of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

8. The guarantor agrees that within 30 days after being notified by the administrative authority of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of [insert "liability coverage" or "closure and/or post-closure care"] he shall establish alternate financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, in the name of [insert "permit holder" or "applicant"], unless [insert "permit holder" or "applicant"] has done so.

9. The guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: [if the guarantee is for closure and post-closure insert "amendment or modification of the closure and/or post-closure care, the extension or reduction of the time of performance of closure and/or post-closure"] or any other modification or alteration of an obligation of the [insert "permit holder" or "applicant"] pursuant to LAC 33:Part.VII.

10. The guarantor agrees to remain bound under this guarantee for as long as the [insert "permit holder" or "applicant"] must comply with the applicable financial assurance requirements of [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"] for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail, to the administrative authority and to the [insert "permit holder" or "applicant"], such cancellation to become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the [insert "permit holder" or "applicant"], as evidenced by the return receipts.

11. The guarantor agrees that if the [insert "permit holder" or "applicant"] fails to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, and obtain written approval of such assurance from the administrative authority within 60 days after a notice of cancellation by the guarantor is received by the administrative authority from guarantor, guarantor shall provide such alternate financial assurance in the name of the [insert "permit holder" or "applicant"].

12. The guarantor expressly waives notice of acceptance of this guarantee by the administrative authority or by the [insert "permit holder" or "applicant"]. Guarantor expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:VII.1399.Appendix J, effective on the date first above written.

Effective date:_____
[Name of Guarantor]
[Authorized signature for guarantor]
[Typed name and title of person signing]

Thus sworn and signed before me this [date].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1098 (June 2007), amended LR 37:3258 (November 2011).

# Chapter 14. Statewide Beautification

## §1401. Purpose

A. It is declared to be the purpose of these rules and regulations to:

1. control and reduce litter; and

2. create a statewide beautification program to enhance the tourist, recreational, and economic development of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2521 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1107 (June 2007).

## §1403. Definitions

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII.Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

*Commission*—the Louisiana Litter Reduction and Public Action Commission.

*Dump*—to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

*Litter*—all waste material, except as provided and defined in R.S. 30:2173(2), including but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials, or other discarded materials of any kind and description. *Litter* shall not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicle. *Litter* shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. *Agricultural product*, as used in this definition, means all crops, livestock, poultry, and forestry; and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

*Local Governing Authority*—the governing authority of the parish or the governing authority of the municipality in which the littering offense was committed.

*Public or Private Property*—the right-of-way of any road or highway, levee, any body of water or watercourse or the shores or beaches thereof, any park, playground, building, refuge, or conservation or recreation area, and residential or farm properties, timberland, or forests.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2522 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2501 (October 2005), repromulgated LR 33:1107 (June 2007), amended LR 33:2157 (October 2007).

### §1405. Louisiana Litter Abatement Program

A. The purpose of the Louisiana Litter Abatement Program shall be to support the community-based litter abatement programs.

B. Program Award

1. Program awards shall be made available to local governments and nonprofit organizations.

2. Funding through the program shall be subject to the availability of funds.

3. All requests for awards shall be made in writing, on a form provided by the department, to the Office of Environmental Services.

4. The monies awarded through the award shall be used to further the administration and execution of the Keep Louisiana Beautiful Program. Allowable uses of award funding shall include, but not be limited to:

a. Keep America Beautiful fees;

b. Keep America Beautiful precertification training, education curriculums, and workshops;

c. law enforcement seminars;

d. litter surveys;

e. projects, services, activities, and operational costs of litter abatement programs;

f. materials and services for program development and training;

g. direct expenditures for materials that can facilitate litter reduction, recycling, waste reduction, reuse, and general solid waste management programs;

h. minimal advertising, public relations, and promotional materials necessary for publicity and promotion of program activities; and

i. the salary of the program coordinator.

5. Each successful applicant shall supplement award funds with a 25 percent match from other sources. All matching funds must be available to the program after the date of the program award, and funds spent prior to the program award shall not be considered eligible in fulfilling the match requirement.

6. Awards shall be awarded based on a comparative basis as determined by the Office of Environmental Services.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:2524 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2610 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), repromulgated LR 33:1107 (June 2007), amended LR 33:2157 (October 2007).

# Chapter 15. Solid Waste Fees

### §1501. Standard Permit Application Review Fee

A. Applicants for Type I, I-A, II, and II-A standard permits shall pay a $3,300 permit application review fee for each facility. The fee shall accompany each permit application submitted.

B. Applicants for Type III standard permits or beneficial-use permits shall pay a permit application review fee of $660 for each facility. The fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for Type I, I-A, II, and II-A facilities shall pay a $1,320 permit-modification review fee. The fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a $660 permit-modification fee. The fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.805.A will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for Type III facilities or beneficial use facilities shall pay a $330 permit-modification review fee. The fee shall accompany each modification submitted.

E. The administrative authority may waive fees for modifications that are:

1. initiated by the administrative authority; or

2. submitted as a result of a permit condition that requires submittal of a modification request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007), amended LR 37:3258 (November 2011).

### §1503. Closure Plan Review Fee

A. Applicants for Type I, I-A, II, and II-A closures shall pay a $1,320 closure-plan review fee. The fee shall accompany each closure plan submitted.

B. Applicants for Type III or beneficial-use facilities closures shall pay a $330 closure-plan review fee. The fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for Type I, I-A, II, and II-A facilities shall pay a $660 closure-plan modification review fee. The fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for Type III or beneficial-use facilities shall pay a $165 closure-plan modification review fee. The fee shall accompany each modification submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007).

## §1505. Annual Monitoring and Maintenance Fee

A. An initial fee is charged for the processing of transporter notifications.

1. The fee shall be calculated by the following formula.

Initial fee per notification + Fee based on each vehicle owned by the transporter = Notification Fee

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

| | |
|---|---|
| Initial Fee | $132 |
| Fee Per Vehicle | $33 |

B. All holders of permits for solid waste processing and/or disposal facilities that have not completed closure, including post-closure activities, in accordance with an approved plan, shall be charged an annual monitoring and maintenance fee for each permit. This annual monitoring and maintenance fee shall be calculated by the following formula.

Base fee per permit + Fee based on tonnage = Annual monitoring and maintenance fee

1. Base fees are as follows:

a. $7,920 for Type I facilities (including facilities that handle both industrial and non-industrial waste);

b. $1,980 for Type II facilities; and

c. $660 for Type I-A, II-A, III, and beneficial-use facilities.

2. Tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:

a. for industrial wastes (Type I facilities, except surface impoundments), $0.79/ton;

b. for non-industrial wastes (Type II facilities, except surface impoundments), $0.20/ton for amounts exceeding 75,000 tons;

c. for construction or demolition debris deposited at permitted construction or demolition debris facilities (Type III facilities), $0.20/ton; and the fee is only applicable to construction or demolition debris that is subject to a fee imposed by the facility;

d. for surface impoundments, no tonnage fee;

e. for publicly operated facilities that treat domestic sewage sludge, no tonnage fee; and

f. for Type I-A, II-A, III (except construction or demolition debris disposal facilities), and beneficial-use facilities, no tonnage fee.

3. The maximum annual monitoring and maintenance fee per facility for Type I facilities (including facilities that handle both industrial and non-industrial solid wastes) is $105,600. The maximum fee per facility for Type II facilities is $26,400. Surface impoundments, as noted above, are assessed only the base fee.

C. The annual monitoring and maintenance period shall be from July 1 through June 30, commencing upon promulgation of these regulations and terminating upon completion of closure or post-closure activities for the facility in accordance with the permit of the administrative authority. The annual monitoring and maintenance fee for facilities during post-closure shall be 25 percent of the applicable base fee in Paragraph B.1 of this Section.

D. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

E. Late Payment Fee. Payments not received within 15 days of the due date will be charged a late payment fee. Any late payment fee shall be calculated from the due date indicated on the invoice.

1. Payments not received by the department by the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee.

2. Payments not received by the department by the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

3. Payments not received by the department by the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

F. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

G. The annual fees prescribed herein shall be effective retroactive for the state fiscal year in which these fee regulations are published in the *Louisiana Register* as adopted and each state fiscal year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154, and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2241 (December 2006), repromulgated LR 33:1108 (June 2007), amended LR 35:2180 (October 2009).

# Chapter 30. Appendices

## §3001. Public Notice Example—Appendix A

A. The following is an example of a public notice to be placed in the local newspaper for intention to submit a permit application to the Office of Environmental Services for existing/proposed solid waste facilities.

PUBLIC NOTICE
OF
INTENT TO SUBMIT PERMIT APPLICATION

[NAME OF APPLICANT/FACILITY]
FACILITY [location], PARISH [location], LOUISIANA

Notice is hereby given that [name of applicant] does intend to submit to the Department of Environmental Quality, Office of Environmental Services, [insert division name] an application for a permit to operate a [type of solid waste facility] in [parish name], Range__, Township__, Section__, which is approximately [identify the physical location of the site by direction and distance from the nearest town].

Comments concerning the facility may be filed with the secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services
[insert division name]
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:1109 (June 2007), LR 33:2157 (October 2007).

## §3003. Public Notice Example—Appendix B

A. The following is an example of a public notice to be placed in the local newspaper after submittal of a permit application to the Office of Environmental Services for existing/proposed solid waste facilities.

PUBLIC NOTICE
OF
SUBMITTAL OF PERMIT APPLICATION
[NAME OF APPLICANT/FACILITY]
FACILITY [location], PARISH [location], LOUISIANA

Notice is hereby given that [name of applicant] submitted to the Department of Environmental Quality, Office of Environmental Services, [insert division name] an application for a permit to operate a [type of solid waste facility] in [parish name], Range__, Township__, Section__, which is approximately [identify the physical location of the site by direction and distance from the nearest town].

Comments concerning the facility may be filed with the Secretary of the Louisiana Department of Environmental Quality at the following address:

Louisiana Department of Environmental Quality
Office of Environmental Services
[insert division name]
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:3259 (November 2011).

## §3005. Groundwater Sampling and Analysis Plan—Appendix C

**Groundwater Sampling and Analysis Plan**

A. All wells must be measured for total depth and depth to water on the same day and immediately prior to purging. Measurements must be to the nearest 0.01 foot, and the values must be recorded in the field notebook. If 10 percent of the screened interval is blocked by sediments, the well must be redeveloped prior to the next required sampling event. Wells with dedicated sampling devices that preclude total-depth measurement must be measured annually.

B. Each well must be purged by evacuation to dryness or by removing a minimum of three casing volumes. The well must be sampled immediately upon purging and/or when sufficient water for sampling has recharged the well. Purging and sampling methods must be consistent throughout the life of the facility. Samples shall not be field filtered prior to laboratory analysis.

C. Samples must be withdrawn using dedicated or adequately cleaned equipment for each well. No equipment or method may be used that will chemically alter or influence the sample. Sampling devices, other than bailers, must be approved by the administrative authority prior to use in monitoring programs. Care must be taken to avoid placing clean sampling equipment on the ground or on any contaminated surface. Sampling methods and equipment must be compatible throughout the life of the facility.

D. Sample preservation, handling, and analysis shall meet the specifications of SW-846, or an equivalent substitute as approved by the administrative authority. Parameters, containers, preservation methods, and analytical limits are listed in Tables 1 and 2.

E. Analytical methods with the equivalency to SW-846, or analytical methods for parameters not listed in SW-846, shall be approved by the administrative authority prior to implementation.

F. A chain of custody shall be employed that will allow for the possession and handling of samples to be traced from the time of collection through laboratory analysis. All sample containers shall be labeled to prevent misidentification, have proper seals, and indicate the test parameters required.

G. At the site, an up-to-date field logbook shall be kept, which documents for each sample the well identification number, total well depth, elevation of top of casing, water level, water color, well-evacuation procedures and equipment, date, time, sample identification numbers, field measurements (pH, specific conductance, etc.) and methods, name of collector, field observations, calculations of the standing-water volume in the well, and the total volume evacuated.

**Table 1**
**Detection Monitoring Parameters**

| | Common Name[1] | CAS RN[2] |
|---|---|---|
| | **Inorganic Constituents** | |
| (1) | Antimony | (Total) |
| (2) | Arsenic | (Total) |

| Table 1<br>Detection Monitoring Parameters | | |
|---|---|---|
| **Common Name[1]** | | **CAS RN[2]** |
| (3) | Barium | (Total) |
| (4) | Beryllium | (Total) |
| (5) | Cadmium | (Total) |
| (6) | Chromium | (Total) |
| (7) | Cobalt | (Total) |
| (8) | Copper | (Total) |
| (9) | Lead | (Total) |
| (10) | Nickel | (Total) |
| (11) | Selenium | (Total) |
| (12) | Silver | (Total) |
| (13) | Thallium | (Total) |
| (14) | Vanadium | (Total) |
| (15) | Zinc | (Total) |
| **Organic Constituents** | | |
| (16) | Acetone | 67-64-1 |
| (17) | Acrylonitrile | 107-13-1 |
| (18) | Benzene | 71-43-2 |
| (19) | Bromochloromethane | 74-97-5 |
| (20) | Bromodichloromethane | 75-27-4 |
| (21) | Bromoform; Tribromomethane | 75-25-2 |
| (22) | Carbon disulfide | 75-15-0 |
| (23) | Carbon tetrachloride | 56-23-5 |
| (24) | Chlorobenzene | 108-90-7 |
| (25) | Chloroethane; Ethyl chloride | 75-00-3 |
| (26) | Chloroform; Trichloromethane | 67-66-3 |
| (27) | Dibromochloromethane; Chlorodibromomethane | 124-48-1 |
| (28) | 1,2-Dibromo-3-chloropropane; DBCP | 96-12-8 |
| (29) | 1,2-Dibromoethane; Ethylene dibromide; EDB | 106-93-4 |
| (30) | o-Dichlorobenzene; 1,2-Dichlorobenzene | 95-50-1 |
| (31) | p-Dichlorobenzene; 1,4-Dichlorobenzene | 106-46-7 |
| (32) | trans-1,4-Dichloro-2-butene | 110-57-6 |
| (33) | 1,1-Dichloroethane; Ethylidene chloride | 75-34-3 |
| (34) | 1,2-Dichloroethane; Ethylene dichloride | 107-06-2 |
| (35) | 1,1-Dichloroethylene; 1,1-Dichloroethene; Vinylidene chloride | 75-35-4 |
| (36) | cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene | 156-59-2 |
| (37) | trans-1,2-Dichloroethylene; trans-1,2-Dichloroethene | 156-60-5 |

| Table 1<br>Detection Monitoring Parameters | | |
|---|---|---|
| **Common Name[1]** | | **CAS RN[2]** |
| (38) | 1,2-Dichloropropane; Propylene dichloride | 78-87-5 |
| (39) | cis-1,3-Dichloropropene | 10061-01-5 |
| (40) | trans-1,3-Dichloropropene | 10061-02-6 |
| (41) | Ethylbenzene | 100-41-4 |
| (42) | 2-Hexanone; Methyl butyl ketone | 591-78-6 |
| (43) | Methyl bromide; Bromomethane | 74-83-9 |
| (44) | Methyl chloride; Chloromethane | 74-87-3 |
| (45) | Methylene bromide; Dibromomethane | 74-95-3 |
| (46) | Methylene chloride; Dichloromethane | 75-09-2 |
| (47) | Methyl ethyl ketone; MEK; 2-Butanone | 78-93-3 |
| (48) | Methyl iodide; Iodomethane | 74-88-4 |
| (49) | 4-Methyl-2-pentanone; Methyl isobutyl ketone | 108-10-1 |
| (50) | Styrene | 100-42-5 |
| (51) | 1,1,1,2-Tetrachloroethane | 630-20-6 |
| (52) | 1,1,2,2-Tetrachloroethane | 79-34-5 |
| (53) | Tetrachloroethylene; Tetrachloroethene; Perchloroethylene | 127-18-4 |
| (54) | Toluene | 108-88-3 |
| (55) | 1,1,1-Trichloroethane; Methylchloroform | 71-55-6 |
| (56) | 1,1,2-Trichloroethane | 79-00-5 |
| (57) | Trichloroethylene; Trichloroethene | 79-01-6 |
| (58) | Trichlorofluoromethane; CFC-11 | 75-69-4 |
| (59) | 1,2,3-Trichloropropane | 96-18-4 |
| (60) | Vinyl acetate | 108-05-4 |
| (61) | Vinyl chloride | 75-01-4 |
| (62) | Xylenes | 1330-20-7 |

NOTES:
[1] Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.
[2] Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

| Table 2<br>Assessment Monitoring Parameters | | |
|---|---|---|
| **Common Name[1]** | **CAS RN[2]** | **Chemical Abstracts Service Index Name[3]** |
| Acenaphthene | 83-32-9 | Acenaphthylene, 1,2-dihydro- |
| Acenaphthylene | 208-96-8 | Acenaphthylene |
| Acetone | 67-64-1 | 2-Propanone |
| Acetonitrile; Methyl cyanide | 75-05-8 | Acetonitrile |
| Acetophenone | 98-86-2 | Ethanone, 1-phenyl- |
| 2-Acetylaminofluorene; 2-AAF | 53-96-3 | Acetamide, N-9H-fluoren-2-yl- |
| Acrolein | 107-02-8 | 2-Propenal |
| Acrylonitrile | 107-13-1 | 2-Propenenitrile |
| Aldrin | 309-00-2 | 1,4:5,8-Dimethanonaphthalene; 1,2,3,4,10,10-hexachloro- 1,4,4a,5,8,8a,- hexa-hydro-(1α,4α,4aβ, 5α,8α,8aβ) |
| Allyl chloride | 107-05-1 | 1-Propene, 3-chloro- |
| 4-Amino-biphenyl | 92-67-1 | [1,1'-Biphenyl]-4-amine |
| Anthracene | 120-12-7 | Anthracene |
| Antimony | (Total) | Antimony |
| Arsenic | (Total) | Arsenic |
| Barium | (Total) | Barium |
| Benzene | 71-43-2 | Benzene |
| Benzo[a]anthracene; 1,2-Benzanthracene | 56-55-3 | Benz[a]anthracene |

**Table 2**
**Assessment Monitoring Parameters**

| Common Name[1] | CAS RN[2] | Chemical Abstracts Service Index Name[3] |
|---|---|---|
| Benzo[b]fluoranthene | 205-99-2 | Benz[e]acephenanthrylene |
| Benzo[k]fluoranthene | 207-08-9 | Benzo[k]fluoranthene |
| Benzo[ghi]perylene | 191-24-2 | Benzo[ghi]perylene |
| Benzo[a]pyrene | 50-32-8 | Benzo[a]pyrene |
| Benzyl alcohol | 100-51-6 | Benzenemethanol |
| Beryllium | (Total) | Beryllium |
| alpha-BHC | 319-84-6 | Cyclohexane, 1,2,3,4,5,6-hexachloro- (1α,2α,3β,4α,5β,6β)- |
| beta-BHC | 319-85-7 | Cyclohexane, 1,2,3,4,5,6-hexachloro- (1α,2β,3α,4β,5α,6β)- |
| delta-BHC | 319-86-8 | Cyclohexane, 1,2,3,4,5,6-hexachloro- (1α,2α,3α,4β, 5α,6β)- |
| gamma-BHC; Lindane | 58-89-9 | Cyclohexane, 1,2,3,4,5,6-hexachloro- (1α,2α,3β,4α,5α,6β)- |
| Bis(2-chloroethoxy)methane | 111-91-1 | Ethane, 1,1'- [methylenebis(oxy)]bis[2-chloro- |
| Bis(2-chloroethyl)ether | 111-44-4 | Ethane, 1,1'-oxybis[2-chloro- |
| Bis(2-chloro-1-methylethyl) ether; 2,2'-Dichlorodiisopropyl ether | 108-60-1 See Note 4 | Propane, 2,2'-oxybis[1-chloro- |
| Bis(2-ethylhexyl) phthalate | 117-81-7 | 1,2-Benzene-dicarboxylic acid; bis(2-ethylhexyl) ester |
| Bromochloromethane; Chlorobromomethane | 74-97-5 | Methane, bromochloro- |
| Bromodichloromethane | 75-27-4 | Methane, bromodichloro- |
| Bromoform; Tribromomethane | 75-25-2 | Methane, tribromo- |
| 4-Bromophenyl phenyl ether | 101-55-3 | Benzene, 1-bromo-4-phenoxy- |
| Butyl benzyl phthalate; Benzyl butyl phthalate | 85-68-7 | 1,2-Benzenedicarboxylic acid; butyl phenylmethyl ester |
| Cadmium | (Total) | Cadmium |
| Carbon disulfide | 75-15-0 | Carbon disulfide |
| Carbon tetrachloride | 56-23-5 | Methane, tetrachloro- |
| Chlordane | 57-74-9 See Note 5 | 4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a- hexahydro- |
| p-Chloroaniline | 106-47-8 | Benzenamine, 4-chloro- |
| Chlorobenzene | 108-90-7 | Benzene, chloro- |
| Chlorobenzilate | 510-15-6 | Benzeneacetic acid, 4-chloro-α-(4-chlorophenyl)-α-hydroxy-, ethyl ester |
| p-Chloro-m-cresol | 59-50-7 | Phenol, 4-chloro-3-methyl- |
| Chloroethane; Ethyl chloride | 75-00-3 | Ethane, chloro- |
| Chloroform | 67-66-3 | Methane, trichloro- |
| 2-Chloronaphthalene | 91-58-7 | Naphthalene, 2-chloro- |
| 2-Chlorophenol | 95-57-8 | Phenol, 2-chloro- |
| 4-Chlorophenyl phenyl ether | 7005-72-3 | Benzene, 1-chloro-4-phenoxy- |
| Chloroprene | 126-99-8 | 1,3-Butadiene, 2-chloro- |
| Chromium | (Total) | Chromium |
| Chrysene | 218-01-9 | Chrysene |
| Cobalt | (Total) | Cobalt |
| Copper | (Total) | Copper |
| m-Cresol | 108-39-4 | Phenol, 3-methyl- |
| o-Cresol | 95-48-7 | Phenol, 2-methyl- |
| p-Cresol | 106-44-5 | Phenol, 4-methyl- |
| Cyanide | 57-12-5 | Cyanide |
| 2,4-D; 2,4-Dichlorophenoxyacetic acid | 94-75-7 | Acetic acid, (2,4-dichlorophenoxy)- |
| 4,4'-DDD | 72-54-8 | Benzene 1,1'-(2,2-dichloroethylidene) bis[4-chloro- |
| 4,4'-DDE | 72-55-9 | Benzene, 1,1'-(dichloroethenylidene) bis[4-chloro- |
| 4,4'-DDT | 50-29-3 | Benzene, 1,1'-(2,2,2-trichloroethylidene) bis[4-chloro- |
| Diallate | 2303-16-4 | Carbamothioic acid, bis(1-methyl- ethyl)-, S-(2,3-dichloro-2-propenyl) ester |
| Dibenz[a,h]- anthracene | 53-70-3 | Dibenz[a,h] anthracene |
| Dibenzofuran | 132-64-9 | Dibenzofuran |
| Dibromochloromethane; Chlorodibromomethane | 124-48-1 | Methane, dibromochloro- |
| 1,2-Dibromo-3-chloropropane; DBCP | 96-12-8 | Propane, 1,2-dibromo-3-chloro- |
| 1,2-Dibromoethane; Ethylene dibromide | 106-93-4 | Ethane, 1,2-dibromo- |
| Di-n-butyl phthalate | 84-74-2 | 1,2-Benzene dicarboxylic acid, dibutyl ester |
| o-Dichlorobenzene | 95-50-1 | Benzene, 1,2-dichloro- |
| m-Dichlorobenzene | 541-73-1 | Benzene, 1,3-dichloro- |
| p-Dichlorobenzene | 106-46-7 | Benzene, 1,4-dichloro- |
| 3,3'-Dichlorobenzidine | 91-94-1 | [1,1'-Biphenyl]-4,4'-diamine, 3,3'- dichloro- |

| Table 2<br>Assessment Monitoring Parameters | | |
|---|---|---|
| **Common Name[1]** | **CAS RN[2]** | **Chemical Abstracts Service Index Name[3]** |
| trans-1,4-Dichloro-2-butene | 110-57-6 | 2-Butene, 1,4-dichloro-, (E)- |
| Dichlorodifluoromethane | 75-71-8 | Methane, dichlorodifluoro- |
| 1,1-Dichloroethane | 75-34-3 | Ethane, 1,1-dichloro- |
| 1,2-Dichloroethane; Ethylene dichloride | 107-06-2 | Ethane, 1,2-dichloro- |
| 1,1-Dichloroethylene; Vinylidene chloride | 75-35-4 | Ethene, 1,1-dichloro |
| cis-1,2-Dichloroethylene; cis-1,2-Dichloroethene | 156-59-2 | Ethene, 1,2-dichloro-, (Z)- |
| trans-1,2-Dichloroethylene | 156-60-5 | Ethene, 1,2-dichloro-(E)- |
| 2,4-Dichlorophenol | 120-83-2 | Phenol, 2,4-dichloro- |
| 2,6-Dichlorophenol | 87-65-0 | Phenol, 2,6-dichloro- |
| 1,2-Dichloropropane | 78-87-5 | Propane, 1,2-dichloro- |
| 1,3-Dichloropropane; Trimethylene dichloride | 142-28-9 | Propane, 1,3-dichloro- |
| 2,2-Dichloropropane; Isopropylidene chloride | 594-20-7 | Propane, 2,2-dichloro- |
| 1,1-Dichloropropene | 563-58-6 | 1-Propene, 1,1-dichloro- |
| cis-1,3-Dichloropropene | 10061-01-5 | 1-Propene, 1,3-dichloro-, (Z)- |
| trans-1,3-Dichloropropene | 10061-02-6 | 1-Propene, 1,3-dichloro-, (E)- |
| Dieldrin | 60-57-1 | 2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a,7, 7a-octahydro-, (1aα,2β,2aα,3β,6β,6aα, 7β,7aα)- |
| Diethyl phthalate | 84-66-2 | 1,2-Benzenedicarboxylic acid, diethyl ester |
| O,O-Diethyl O-2-pyrazinyl phosphorothioate; Thionazin | 297-97-2 | Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester |
| Dimethoate | 60-51-5 | Phosphorodithioic acid, O,O-dimethyl-S-[2-(methylamino) -2-oxoethyl] ester |
| p-(Dimethylamino)azobenzene | 60-11-7 | Benzenamine, N,N-dimethyl-4- (phenylazo)- |
| 7,12-Dimethylbenz[a] anthracene | 57-97-6 | Benz[a]anthracene, 7,12-dimethyl- |
| 3,3'-Dimethylbenzidine | 119-93-7 | [1,1'-Biphenyl]-4,4'-diamine, 3,3'- dimethyl- |
| alpha, & alpha-Dimethylphenethylamine | 122-09-8 | Benzeneethanamine, αα-dimethyl |
| 2,4-Dimethylphenol | 105-67-9 | Phenol, 2,4-dimethyl- |
| Dimethyl phthalate | 131-11-3 | 1,2-Benzenedicarboxylic acid, dimethyl ester |
| m-Dinitrobenzene | 99-65-0 | Benzene, 1,3-dinitro- |
| 4,6-Dinitro-o-cresol | 534-52-1 | Phenol, 2-methyl-4,6-dinitro- |
| 2,4-Dinitrophenol | 51-28-5 | Phenol, 2,4-dinitro- |
| 2,4-Dinitrotoluene | 121-14-2 | Benzene, 1-methyl-2,4-dinitro- |
| 2,6-Dinitrotoluene | 606-20-2 | Benzene, 2-methyl-1,3-dinitro- |
| Dinoseb; DNBP; 2-sec-Butyl- 4,6-dinitrophenol | 88-85-7 | Phenol, 2-(1-methyl- propyl)-4,6-dinitro- |
| Di-n-octyl phthalate | 117-84-0 | 1,2-Benzenedicarboxylic acid, dioctyl ester |
| Diphenylamine | 122-39-4 | Benzenamine, N-phenyl- |
| Disulfoton | 298-04-4 | Phosphorodithioic acid, O,O-diethyl S- [2-(ethylthio) ethyl]ester |
| Endosulfan I | 959-98-8 | 6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a-hexahydro-,3-oxide, (3α,5aβ,6α,9α,9aβ)- |
| Endosulfan II | 33213-65-9 | 6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a-hexahydro-,3-oxide, (3α,5aα,6β,9β,9aα)- |
| Endosulfan sulfate | 1031-07-8 | 6,9-Methano-2,4,3 benzodioxathiepin, 6,7,8,9,10,10-hexachloro -1,5,5a,6,9,9a-hexahydro-,3,3-dioxide |
| Endrin | 72-20-8 | 2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro- 1a,2,2a,3,6,6a, 7,7a-octahydro-, (1aα,2β,2aβ,3α,6α,6aβ, 7β,7aα)- |
| Endrin aldehyde | 7421-93-4 | 1,2,4-Methenocyclopenta[cd]-pentalene-5-carboxaldehyde, 2,2a,3,3,4,7-hexachlorodecahydro- (1α,2β,2aβ,4β,4aβ,5β, 6aβ,6bβ,7R*) |
| Ethylbenzene | 100-41-4 | Benzene, ethyl- |
| Ethyl methacrylate | 97-63-2 | 2-Propenoic acid, 2-methyl-, ethyl ester |
| Ethyl methanesulfonate | 62-50-0 | Methanesulfonic acid, ethyl ester |
| Famphur | 52-85-7 | Phosphorothioic acid, O-[4-[(dimethyl- amino)-sulfonyl] phenyl]-O,O-dimethyl ester |
| Fluoranthene | 206-44-0 | Fluoranthene |
| Fluorene | 86-73-7 | 9H-Fluorene |
| Heptachlor | 76-44-8 | 4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a- tetrahydro- |

**Table 2**
**Assessment Monitoring Parameters**

| Common Name[1] | CAS RN[2] | Chemical Abstracts Service Index Name[3] |
|---|---|---|
| Heptachlor epoxide | 1024-57-3 | 2,5-Methano-2H-indeno [1,2-b]oxirene, 2,3,4,5,6,7,7-heptachloro- 1a,1b,5,5a,6,6a-hexahydro-, (1aα,1bβ,2α,5α,5aβ,6β,6aα) |
| Hexachlorobenzene | 118-74-1 | Benzene, hexachloro- |
| Hexachlorobutadiene | 87-68-3 | 1,3-Butadiene, 1,1,2,3,4,4-hexachloro- |
| Hexachlorocyclopentadiene | 77-47-4 | 1,3-Cyclopentadiene |
| Hexachloroethane | 67-72-1 | Ethane, hexachloro- |
| Hexachloropropene | 1888-71-7 | 1-Propene, 1,1,2,3,3,3-hexachloro- |
| 2-Hexanone | 591-78-6 | 2-Hexanone |
| Indeno(1,2,3-cd) pyrene | 193-39-5 | Indeno[1,2,3-cd] pyrene |
| Isobutyl alcohol | 78-83-1 | 1-Propanol, 2-methyl- |
| Isodrin | 465-73-6 | 1,4:5,8-Dimethanonaphthalene, 1,2,3,4, 10,10-hexachloro-1,4,4a,5,8,8a- hexahydro- (1α,4α,4aβ,5β,8β,8aβ)- |
| Isophorone | 78-59-1 | 2-Cyclohexen-1-one, 3,5,5-tri-methyl- |
| Isosafrole | 120-58-1 | 1,3-Benzodioxole, 5-(1-propenyl)- |
| Kepone | 143-50-0 | 1,3,4-Metheno-2H- cyclobuta-[cd] pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6- decachlorooctahydro- |
| Lead | (Total) | Lead |
| Mercury | (Total) | Mercury |
| Methacrylonitrile | 126-98-7 | 2-Propene, nitrile 2-methyl- |
| Methapyrilene | 91-80-5 | 1,2,Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2- thienylmethyl)- |
| Methoxychlor | 72-43-5 | Benzene, 1,1'-(2,2,2, trichloroethylidene) bis[4-methoxy- |
| Methyl bromide; Bromomethane | 74-83-9 | Methane, bromo- |
| Methyl chloride; Chloromethane | 74-87-3 | Methane, chloro- |
| 3-Methylcholanthrene | 56-49-5 | Benz[j]aceanthrylene, 1,2-dihydro- 3-methyl- |
| Methyl ethyl ketone; MEK | 78-93-3 | 2-Butanone |
| Methyl iodide; Iodomethane | 74-88-4 | Methane, iodo- |
| Methyl methacrylate | 80-62-6 | 2-Propenoic acid, 2-methyl-, methyl ester |
| Methyl methanesulfonate | 66-27-3 | methanesulfonic acid, methyl ester |
| 2-Methylnaphthalene | 91-57-6 | Naphthalene, 2-methyl- |
| Methyl parathion; Parathion methyl | 298-00-0 | Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester |
| 4-Methyl-2-pentanone; Methyl isobutyl ketone | 108-10-1 | 2-Pentanone, 4-methyl |
| Methylene bromide; Dibromomethane | 74-95-3 | Methane, dibromo- |
| Methylene chloride; Dichloromethane | 75-09-2 | Methane, dichloro- |
| Naphthalene | 91-20-3 | Naphthalene |
| 1,4-Naphthoquinone | 130-15-4 | 1,4-Naphthalenedione |
| 1-Naphthylamine | 134-32-7 | 1-Naphthalenamine |
| 2-Naphthylamine | 91-59-8 | 2-Naphthalenamine |
| Nickel | (Total) | Nickel |
| o-Nitroaniline | 88-74-4 | Benzenamine, 2-nitro- |
| m-Nitroaniline | 99-09-2 | Benzenamine, 3-nitro- |
| p-Nitroaniline | 100-01-6 | Benzenamine, 4-nitro- |
| Nitrobenzene | 98-95-3 | Benzene, nitro- |
| o-Nitrophenol | 88-75-5 | Phenol, 2-nitro- |
| p-Nitrophenol | 100-02-7 | Phenol, 4-nitro |
| N-Nitrosodi-n-butylamine | 924-16-3 | 1-Butanamine, N-butyl-N-nitroso- |
| N-Nitrosodiethylamine | 55-18-5 | Ethanamine, N-ethyl-N-nitroso- |
| N-Nitrosodimethylamine | 62-75-9 | Methanamine, N-methyl-N-nitroso- |
| N-Nitrosodiphenylamine | 86-30-6 | Benzenamine, N-nitroso-N-phenyl- |
| N-Nitrosodipropylamine; Di-n-propylnitrosamine | 621-64-7 | 1-Propanamine, N-nitroso-N-propyl- |
| N-Nitrosomethylethylamine | 10595-95-6 | Ethanamine, N-methyl-N-nitroso- |
| N-Nitrosopiperidine | 100-75-4 | Piperidine, 1-nitroso- |
| N-Nitrosopyrrolidine | 930-55-2 | Pyrrolidine, 1-nitroso- |
| 5-Nitro-o-toluidine | 99-55-8 | Benzenamine, 2- methyl-5-nitro- |
| Parathion | 56-38-2 | Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester |
| Pentachlorobenzene | 608-93-5 | Benzene, pentachloro- |
| Pentachloronitrobenzene | 82-68-8 | Benzene, pentachloronitro- |
| Pentachlorophenol | 87-86-5 | Phenol, pentachloro- |
| Phenacetin | 62-44-2 | Acetamide, N-(4-ethoxyphenyl) |
| Phenanthrene | 85-01-8 | Phenanthrene |

| Table 2<br>Assessment Monitoring Parameters | | |
|---|---|---|
| **Common Name[1]** | **CAS RN[2]** | **Chemical Abstracts Service Index Name[3]** |
| Phenol | 108-95-2 | Phenol |
| p-Phenylenediamine | 106-50-3 | 1,4-Benzenediamine |
| Phorate | 298-02-2 | Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester |
| Polychlorinated biphenyls; PCBs | See Note 6 | 1,1'-Biphenyl, chloro derivatives |
| Pronamide | 23950-58-5 | Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)- |
| Propionitrile; Ethyl cyanide | 107-12-0 | Propanenitrile |
| Pyrene | 129-00-0 | Pyrene |
| Safrole | 94-59-7 | 1,3-Benzodioxole, 5-(2-propenyl)- |
| Selenium | (Total) | Selenium |
| Silver | (Total) | Silver |
| Silvex; 2,4,5-TP | 93-72-1 | Propanoic acid, 2-(2,4,5-trichlorophenoxy)- |
| Styrene | 100-42-5 | Benzene, ethenyl- |
| Sulfide | 18496-25-8 | Sulfide |
| 2,4,5-T; 2,4,5-Trichlorophenoxyacetic acid | 93-76-5 | Acetic acid, (2,4,5-trichlorophenoxy)- |
| 2,3,7,8-TCDD; 2,3,7,8-Tetrachlorodibenzo-p-dioxin | 1746-01-6 | Dibenzo[b,e][1,4]dioxin, 2,3,7,8-tetrachloro- |
| 1,2,4,5-Tetrachlorobenzene | 95-94-3 | Benzene, 1,2,4,5-tetrachloro- |
| 1,1,1,2-Tetrachloroethane | 630-20-6 | Ethane, 1,1,1,2-tetrachloro- |
| 1,1,2,2-Tetrachloroethane | 79-34-5 | Ethane, 1,1,2,2-tetrachloro- |
| Tetrachloroethylene; Perchloroethylene; Tetrachloroethene | 127-18-4 | Ethene, tetrachloro- |
| 2,3,4,6-Tetrachlorophenol | 58-90-2 | Phenol, 2,3,4,6-tetrachloro- |
| Thallium | (Total) | Thallium |
| Tin | (Total) | Tin |
| Toluene | 108-88-3 | Benzene, methyl- |
| o-Toluidine | 95-53-4 | Benzenamine, 2-methyl- |
| Toxaphene | 8001-35-2<br>See Note 7 | Toxaphene |
| 1,2,4-Trichlorobenzene | 120-82-1 | Benzene, 1,2,4-trichloro |
| 1,1,1-Trichloroethane; Methylchloroform | 71-55-6 | Ethane, 1,1,1-trichloro- |
| 1,1,2-Trichloroethane | 79-00-5 | Ethane, 1,1,2-trichloro- |
| Trichloroethylene; Trichloroethene | 79-01-6 | Ethene, trichloro- |
| Trichlorofluoromethane | 75-69-4 | Methane, trichlorofluoro- |
| 2,4,5-Trichlorophenol | 95-95-4 | Phenol, 2,4,5-trichloro- |
| 2,4,6-Trichlorophenol | 88-06-2 | Phenol, 2,4,6-trichloro- |
| 1,2,3-Trichloropropane | 96-18-4 | Propane, 1,2,3-trichloro- |
| O,O,O-Triethyl phosphorothioate | 126-68-1 | Phosphorothioic acid, O,O,O-triethyl ester |
| sym-Trinitrobenzene | 99-35-4 | Benzene, 1,3,5-trinitro |
| Vanadium | (Total) | Vanadium |
| Vinyl acetate | 108-05-4 | Acetic acid, ethenyl ester |
| Vinyl chloride | 75-01-4 | Ethene, chloro- |
| Xylene (total) | 1330-20-7<br>See Note 8 | Benzene, dimethyl- |
| Zinc | (Total) | Zinc |

Notes:

[1] Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

[2] Chemical Abstracts Service registry number. Where "Total" is entered, all species in the groundwater that contain this element are included.

[3] CAS index numbers are those used in the 9th Collective Index.

[4] This substance is often called Bis(2-chloroisopropyl) ether, the name that Chemical Abstracts Service applies to its noncommercial isomer, Propane, 2,2'-oxybis[2-chloro- (CAS RN 39638-32-9).

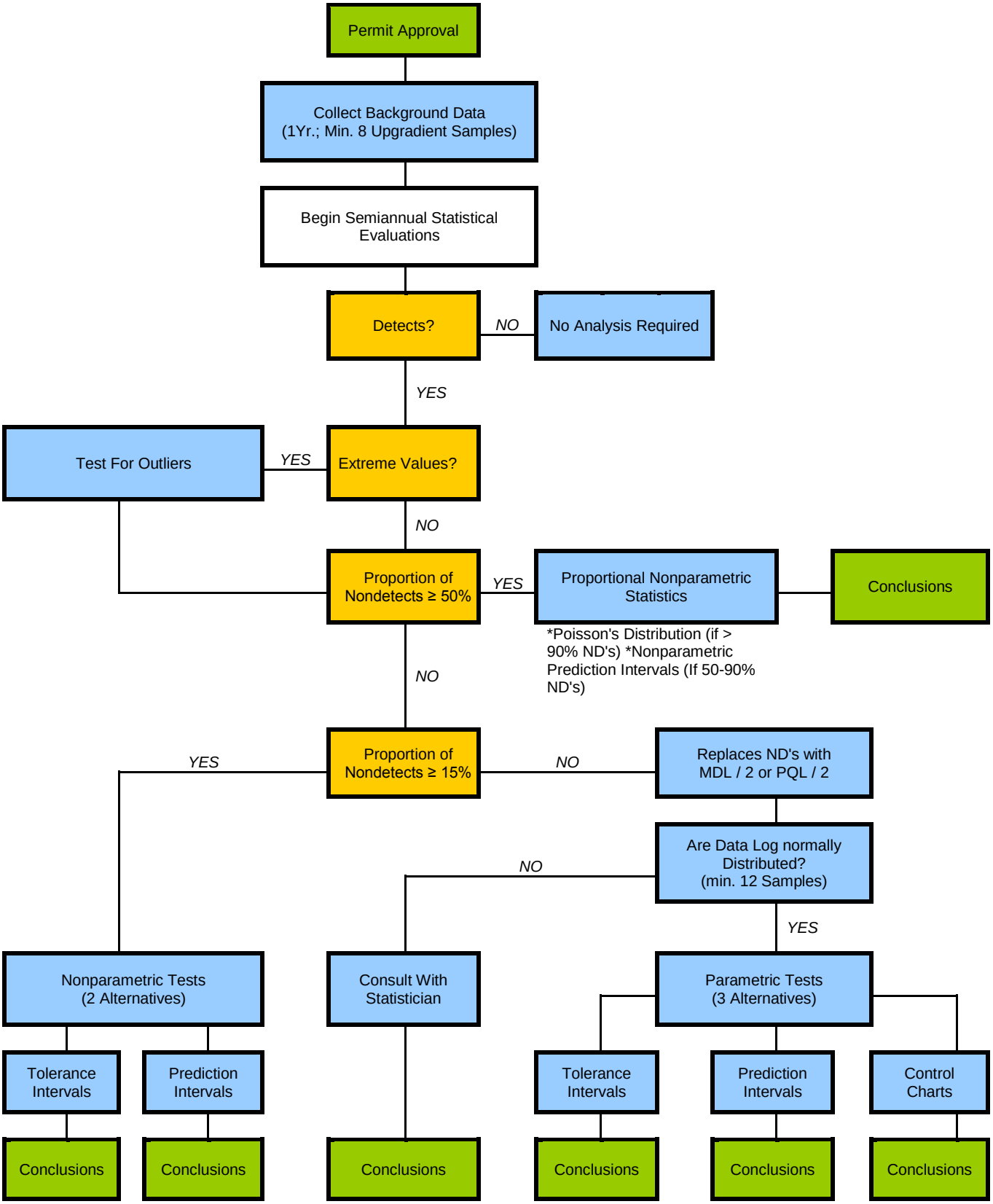
[5] Chlordane: This entry includes alpha-chlordane (CAS RN 5103-71-9), beta-chlordane (CAS RN 5103-74-2), gamma-chlordane (CAS RN 5566-34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6).

[6] Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5).

[7] Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), i.e., chlorinated camphene.

[8] Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7).

**DECISION TREE DIAGRAM**
(for Groundwater Data Statistical Procedure Selection)



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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1109 (June 2007), LR 34:1023 (June 2008).

## §3007. Processes to Reduce Pathogens—Appendix D.1 and D.2

| Appendix D.1 | |
|---|---|
| **Processes to Significantly Reduce Pathogens** | |
| Aerobic Digestion | A process conducted by agitating solid waste with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15°C to 40 days at 20°C, with a volatile-solids reduction of at least 38 percent. |
| Air Drying | A process that allows liquid waste to drain and/or dry on under-drained sand beds or on paved or unpaved basins in which the depth of the waste is 9 inches. A minimum of three months is needed for this process; during two of these months daily temperatures must average above 0° C. |
| Anaerobic Digestion | A process conducted in the absence of air during a residence time ranging from 60 days at 20°C to 15 days at 35-55°C, with a volatile-solids reduction of at least 38 percent. |
| Composting | A process conducted by the within-vessel, static-aerated-pile, or windrow method whereby the solid waste is maintained at minimum operating conditions of 40°C for five days. For four hours during this period, the temperature must exceed 55°C. |
| Lime Stabilization | A process in which sufficient lime is added to produce a pH of 12 after two hours of contact. |
| Other Methods | Other methods or operating conditions for significantly reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods. |

| Appendix D.2 | |
|---|---|
| **Processes to Further Reduce Pathogens** | |
| Composting | A process conducted by the within-vessel, static-aerated-pile, or windrow method. If the within-vessel or static-aerated-pile method is used, the solid waste is maintained at operating conditions of 55°C or greater for three days. If the windrow method is used, the solid waste attains a temperature of 55°C or greater for at least 15 days during the composting period, and the windrow is turned at least five times during this high-temperature period. |
| Heat Drying | A process in which dewatered solid waste cake is dried by direct or indirect contact with hot gases and moisture content is reduced to 10 percent or less. Solid waste particles reach temperatures well in excess of 80° C or the wet-bulb temperature of the gas stream, in contact with the solid waste at the point where it leaves the dryer, is in excess of 80° C. |
| Heat Treatment | A process in which liquid waste is heated to temperatures of 180° C for 30 minutes. |
| Thermophilic Aerobic Digestion | A process in which liquid waste is agitated with air or oxygen to maintain aerobic conditions at residence times of 10 days at 55-60° C, with a volatile-solids reduction of at least 38 percent. |
| Other Methods | Other methods or operating conditions for further reducing pathogens may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods. |

| Appendix D.2 | |
|---|---|
| **Processes to Further Reduce Pathogens** | |
| Any of the processes listed below, used in conjunction with the processes described above, will further reduce pathogens. The processes listed below will not, however, reduce the attraction of disease vectors if they are not used in conjunction with one of the above processes, and therefore are not sufficient alone. | |
| Beta-Ray Irradiation | A process in which solid waste is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (ca. 20° C). |
| Gamma-Ray Irradiation | A process in which solid waste is irradiated with gamma rays from certain isotopes, such as $^{60}$Cobalt and $^{137}$Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20° C). |
| Pasteurization | A process in which solid waste is maintained for at least 30 minutes at a minimum temperature of 70° C. |
| Other Methods | Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above add-on methods. |

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).

## §3009. Vector Attraction Reduction—Appendix E

**Vector Attraction Reduction**

A. When final compost is applied to a lawn or home garden, follow one of the requirements from Paragraphs C.1-3 listed below.

B. When final compost is applied to agricultural land, forest, a public contact site, or a reclamation site, follow one of the requirements from Paragraphs C.1-4 listed below.

C. Vector Attraction Reduction Requirements

1. The specific oxygen uptake rate (SOUR) for final compost treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20˚C.

2. Final compost shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the composting material shall be higher than 40˚C and the average temperature of the composting material shall be higher than 45˚C.

3. The pH of composting material shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours.

4. Final compost applied to the land surface shall be incorporated into the soil within six hours after application to the land, unless otherwise specified by the permitting authority. When final compost incorporated into the soil meets the conditions described in LAC 33:VII.3009.Appendix E.1, the final compost shall be applied to the land within eight hours after being discharged from the pathogen treatment process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).

## §3011. Document to be Filed in the Parish Records upon Final Closure of a Solid Waste Disposal Facility—Appendix F

**Document to be Filed in the Parish Records upon Final Closure of a Solid Waste Disposal Facility**

[Name of permit holder] hereby notifies the public that the following described property was used for the disposal of solid waste. This site was closed on [date facility was closed] in accordance with the *Louisiana Administrative Code*, Title 33, Part VII. Inquiries regarding the contents of [the facility] may be directed to [name of person with knowledge of the contents of the facility] at [address of person with knowledge of the contents of the facility].

Property Description
[Provide the specific description of the location of the facility]

_____
Signature of Person Filing Parish Record

_____
Typed Name and Title of Person Filing Parish Record

_____
Date

(A true copy of the document must be certified by the parish clerk of court.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).

## §3015. Examples of Agricultural Wastes That May Be Managed under Approved Best Management Practice Plans—Appendix H

**Examples of Agricultural Wastes That May Be Managed under Approved Best Management Practice Plans**

1. Sugar mill bagasse ash
2. Bagasse
3. Filter press mud from sugar mills
4. Chicken litter
5. Dead poultry carcasses
6. Rice hulls
7. Rice hull ash
8. Shells from crawfish and shellfish processing
9. Vegetable peels and waste from packing and processing
10. Cotton gin trash
11. Livestock and poultry litter, bedding, and composted livestock and poultry carcasses
12. Waste and wastewater from livestock, poultry, and fisheries packing and processing

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1120 (June 2007).

## §3017. LPPA-LDEQ Work Group Agreement—Appendix I

**LPPA-LDEQ Work Group Agreement**

The Louisiana Pulp and Paper Association-Louisiana Department of Environmental Quality Solid Waste Beneficial Use Work Group (LPPA-LDEQ Work Group) established an agreement in May 1997 regarding the applicability of the Louisiana Solid Waste Regulations (LSWR) to a variety of materials produced by the pulp and paper industry. During these meetings, a number of preliminary agreements regarding the regulatory applicability of the LSWR to certain categories of materials were reached.

1. Group 1 materials are those that are to be used or reused as either:

a. ingredients, raw materials, or feedstocks in industrial processes to make products; or

b. effective substitutes for commercial products, provided that such uses do not involve application to the land.

The LPPA-LDEQ Work Group agreed that the Group 1 materials, when employed for these uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR. A listing of the Group 1 materials and their uses are provided in Table 1 of this Appendix.

2. Group 2 materials are those that are to be applied to the land subject to the general approval of the LDEQ in accordance with this Appendix, and:

a. the specific approval of the Louisiana Department of Agriculture and Forestry (LDAF) for use as either a potting soil amendment, soil liming agent, soil nutritional supplement, or cover for timber land;

b. the Louisiana Department of Transportation and Development (LDOTD) standards of criteria for soil cement, road base material, or an aggregate for road surfaces; or

c. the specific approval of the LDEQ for use as ingredients for landfill or surface impoundment closure caps.

The LPPA-LDEQ Work Group agreed that the Group 2 materials, when employed for these uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR. A listing of the Group 2 materials and their uses are provided in Table 2 of this Appendix.

3. Group 3 materials are those materials listed in Table 1 or Table 2 that are either presently located in a regulated solid waste landfill or surface impoundment or that will be temporarily stockpiled in a regulated solid waste landfill or surface impoundment prior to one of the uses specified in Table 1 or Table 2. The LPPA-LDEQ Work Group agreed that these Group 3 materials, when proposed to be removed for one of the corresponding uses indicated for the Group 1 or Group 2 materials would be subjected to a one-time, facility-specific Solid Waste Permit Minor Modification that would not require public notice. See the example in this Appendix for the agreed upon language for the permit condition to be added pursuant to the one-time, facility-specific Solid Waste Permit Minor Modification. The LPPA-LDEQ Work Group also agreed that these Group 3 materials, when removed from a regulated solid waste landfill or surface impoundment pursuant to the above noted permit condition and employed for the Group 1 or Group 2 uses, are not being discarded and, thus, are not subject to the generator, transporter, or permitting requirements of the LSWR upon such removal.

Only Group 2 materials, i.e., those materials destined for off-site applications to the land for such uses as soil amendments, supplements, or ingredients, are allowed to be stored on-site in a location outside of any regulated solid waste unit. Such storage shall only occur in those on-site areas where runoff is fully captured and treated by the mill's wastewater treatment system. Such materials destined for approved off-site applications shall only be held in temporary storage for a period not to exceed 24 months. No Group 3 materials, i.e., those that had been placed in, and subsequently removed from, regulated solid waste units, shall be stored on-

site at any location outside of a regulated solid waste unit at any time.

Reporting Requirements. Group 1, 2, or 3 materials, when utilized or removed for one of the uses specified in Table 1 or 2, shall be reported on the Disposer Annual Report filed by the mill.

**Table 1**
**Group 1 Materials**
**(Materials Not Applied to Land)**

| Material Description | Uses |
|---|---|
| Wood-Fired Boiler Ash | 1. Feedstock to produce activated carbon.<br>2. Feedstock to produce charcoal.<br>3. Waste solidification or stabilization agent.<br>4. Feedstock to produce portland cement.<br>5. Any other feedstock use or substitute for a commercial product (no land application). |
| Coal-Fired Boiler Ash | 1. Waste solidification or stabilization agent.<br>2. Feed stock to produce portland cement.<br>3. Any other feedstock use or substitute for a commercial product (no land application). |
| Lime and Lime Mud | 1. Feedstock to produce lime.<br>2. Feedstock to produce portland cement.<br>3. Any other feedstock use or substitute for a commercial product (no land application). |
| Slaker Grit | 1. Feedstock to produce portland cement. |
| Wood Fiber (Primary Clarifier Sludge) | 1. Feedstock to produce absorbents.<br>2. Feedstock to produce tar paper or roofing felt.<br>3. Feedstock to produce filter paper.<br>4. Feedstock to produce insulation.<br>5. Use as ingredient or core material in structural and nonstructural concrete products.<br>6. Any other feed stock use or substitute for a commercial product (no land application). |
| Recycled Fiber (Recycled Fiber Residues) | 1. Feed stock to produce absorbents.<br>2. Feedstock to produce tar paper or roofing felt.<br>3. Feedstock to produce filter paper.<br>4. Feedstock to produce insulation.<br>5. Use as ingredient or core material in structural and nonstructural concrete products.<br>6. Any other feedstock use or substitute for a commercial product (no land application). |

**Table 2**
**Group 2 Materials**
**(Materials Applied to Land)**

| Material Description | Uses | Specifications* That Shall Be Met for Such Use |
|---|---|---|
| Wood-Fired Boiler Ash (Produced by the pulp and paper industry in Louisiana) | Potting Soil Amendment | Those required by the LDAF and LDEQ for approval. |
| | Soil Liming Agent | Those required by the LDAF and LDEQ for approval. |
| | Soil Nutritional Supplement | Those required by the LDAF and LDEQ for approval. |
| | Ingredient for Landfill or Surface Impoundment Closure Caps | Those required by the LDEQ for approval. |
| | Any other use approved by the LDAF or LDOTD and LDEQ | Those required by the LDAF or LDOTD and LDEQ for approval. |
| Coal-Fired Boiler Ash (Produced by the pulp and paper industry in Louisiana) | Potting Soil Amendment | Those required by the LDAF and LDEQ for approval. |
| | Soil Liming Agent | Those required by the LDAF and LDEQ for approval. |
| | Soil Nutritional Supplement | Those required by the LDAF and LDEQ for approval. |
| | Ingredient for Landfill or Surface Impoundment Closure Caps | Those required by the LDEQ for approval. |
| | Any other use approved by the LDAF or LDOTD and LDEQ | Those required by the LDAF or LDOTD and LDEQ for approval. |
| Lime, Lime Mud, Lime Residues and Slaker Grit (Produced by the pulp and paper industry in Louisiana) | Potting Soil Amendment | Those required by the LDAF and LDEQ for approval. |
| | Soil Cement | Those required or adopted by the LDOTD. |
| | Soil Liming Agent | Those required by the LDAF for approval. |
| | Ingredient for Landfill or Surface Impoundment Closure Caps | Those required by the LDEQ for approval. |
| | Any other use approved by the LDOTD, LDAF, and LDEQ | Those required by the LDAF and LDEQ for approval or required or adopted by the LDOTD. |
| Boiler Gravel (that which becomes trapped in the bark on logs prior to debarking by the pulp and paper industry in Louisiana) | Road Base Material | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Aggregate for road surfaces | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Asphalt amendments | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Any other off-site use satisfying the criteria or standards of the LDOTD | If used off-site, those required or adopted by the LDOTD. |
| Wood fiber and recycled fiber (such as primary clarifier sludge produced by the pulp and paper industry in Louisiana) | Potting soil amendment | Those required by the LDAF and LDEQ for approval. |
| | Soil nutritional supplement | Those required by the LDAF and LDEQ for approval. |
| | Ingredient for landfill/surface impoundment closure caps | Those required by the LDEQ for approval. |
| | Cover for timber land | Those required by the LDAF and LDEQ for approval. |

| Table 2<br>Group 2 Materials<br>(Materials Applied to Land) | | |
|---|---|---|
| **Material Description** | **Uses** | **Specifications* That Shall Be Met for Such Use** |
| | Any other use approved by the LDAF or LDOTD and LDEQ | Those required by the LDAF or LDOTD and LDEQ for approval. |
| Mixtures containing boiler ash, boiler gravel, wood fiber, recycled fiber, lime residues, and slaker grit (Produced by the pulp and paper industry in Louisiana) | Potting soil amendment | Those required by the LDAF and LDEQ for approval. |
| | Soil Liming Agent | Those required by the LDAF and LDEQ for approval. |
| | Ingredient for landfill / surface impoundment closure caps | Those required by the LDEQ for approval. |
| | Road Base Material | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Aggregate for Road Surfaces | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Asphalt Amendments | None if used on-site; if used off-site, those required or adopted by the LDOTD. |
| | Any other on-site or off-site use approved by the LDAF or LDOTD and LDEQ | Those required by the LDAF or LDOTD and LDEQ, or LDEQ only, as appropriate, for approval. |
| *The specifications and approval from LDEQ consist of those that are set forth in the LDEQ letter received in response to this LPPA request for reclassification dated June 18, 1999. | | |

**Example For**
**Permit Condition Language For The One-Time, Facility-Specific Minor Permit Modification Addressing Materials Removed From LSWR Regulated Surface Impoundments Or Landfills In Louisiana's Pulp And Paper Industry**

In accordance with LAC 33:VII.303.A.11, when the [description of material], which has not been commingled or contaminated with dissimilar solid wastes, is removed from the [name of facility-specific surface impoundment or landfill], and subsequently used as:

1. Louisiana Department of Agriculture and Forestry (LDAF) approved potting soil amendments, soil liming agents, soil nutritional supplements, or cover for timber land;

2. soil cement, road base materials, or aggregate for road surfaces that satisfy the standards or criteria approved by the Louisiana Department of Transportation and Development (LDOTD); or

3. Louisiana Department of Environmental Quality (LDEQ) approved ingredients for landfill or surface impoundment closure caps; such material, when managed in accordance with all other applicable laws, regulations, and conditions, is no longer considered to be discarded and, thus, is not subject to the generator, transporter, or permitting requirements of the Louisiana Solid Waste Regulations (LSWR).

However, while such material is present in the [name of facility-specific surface impoundment or landfill], it remains subject to all applicable requirements of the LSWR until such removal occurs.

The total tonnage of this material removed from the regulated unit for any such use shall be reported on the facility's Annual Disposer's Solid Waste Report. Any proposed new use for the material must have the approval of the LDAF or LDOTD and LDEQ, or the LDEQ only, as appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1120 (June 2007).

# Title 33
# ENVIRONMENTAL QUALITY
## Part VII. Solid Waste
## Subpart 2. Recycling

## Chapter 103. Recycling and Waste Reduction Rules

### §10301. Purpose

It is declared to be the purpose of these rules and regulations to:

A. establish a goal of reducing the amount of solid waste being disposed of in the state by 25 percent by December 31, 1992;

B. encourage the development of solid waste reduction and recycling as a management procedure at all solid waste facilities in the state and to promote recovery of recyclable materials so as to preserve and enhance the quality of air, water, and land resources of or in Louisiana;

C. encourage the development of the state's recycling industry, thereby conserving the natural resources and energy through reuse;

D. encourage state agencies to procure recycled goods to the extent possible;

E. encourage political subdivisions in the state to explore and develop the recycling programs most advantageous to each;

F. develop and implement effective public education programs concerning recycling in order to encourage recycling so as to preserve and enhance the natural beauty of the land, water, and air of or in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:35 (January 1992).

### §10303. Definitions

A. The following words, terms, and phrases, when used in conjunction with LAC 33:VII.Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

*Elements of Nature*—acts of God.

*Label*—a molded imprint or raised symbol on or near the bottom of a plastic product.

*Permit*—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure of facilities used or intended to be used to process, collect or transport waste tires in accordance with the Act, these regulations, and specified terms and conditions.

*Permittee/Permit Holder*—a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

*Plastic Bottle*—a plastic container, that has a neck that is smaller than the body of the container, accepts a screw-type, snap cap, or other closure, and has a capacity of 16 fluid ounces or more, but less than 5 gallons.

*Premises*—a unit of land and/or buildings, or any portion thereof. Property shall be considered as contiguous parcels even if separated by a utility easement or road or railroad right of way.

*Process*—a method or technique, including recycling, recovering, compacting (but not including compacting which occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport; or a method to reduce it in volume; or a method which renders it amenable for recovery, storage, reshipment or resale.

*Recovered Materials*—those materials which have known recycling potential, can be feasibly recycled, and have been diverted or removed from the solid waste stream, for sale, use, or reuse, by separation, collection, or processing.

*Recyclable Materials*—those materials which are capable of being recycled and which would otherwise be processed or disposed of as nonhazardous solid waste.

*Recycled Content*—materials that contain a percentage of post-consumer materials as determined by the department in the products or materials to be procured, including but not limited to paper, aluminum, glass, and composted materials.

*Recycling*—any process by which nonhazardous solid waste, or material which would otherwise become solid waste, is collected, separated, or processed and reused or returned to use in the form of raw materials or products.

*Rigid Plastic Container*—any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin, and having a relatively inflexible finite shape or form with a capacity of 8 ounces or more but less than 5 gallons.

*Speculative Accumulation of Recyclable Materials*—the accumulation of recyclable materials for which no current use, reuse, recycling or any reasonably anticipated future market for the use, reuse, or recycling of the material exists.

*White Goods*—inoperative and/or discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial appliances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:35 (January 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 37:3259 (November 2011).

## §10305. Exemptions

The following wastes or activities are exempt from the requirements of this Chapter:

A. recovered materials, if a majority of the recovered materials at a facility is demonstrated to be sold, used, or reused in a manner satisfactory to the department within 12 months of their receipt by the facility;

B. recovered materials, or the products or by-products of operations that process recovered materials, which are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water surface so that such products or by-products or any constituent thereof may enter lands or be emitted into the air or discharged into the waters, including groundwater, or otherwise enter the environment or pose a threat to public health and safety or the environment;

C. recovered materials which are hazardous wastes and have not been recovered from solid waste and which are defined as hazardous wastes under applicable state or federal regulations; and

D. those wastes exempt under the Louisiana Solid Waste Management and Resource Recovery Law and the Louisiana Solid Waste Rules and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:35 (January 1992).

## §10307. Development of Local Plan

A. Each parish, in conjunction with its municipalities, shall submit to the department for its approval a plan for attaining a 25 percent waste reduction goal by December 31, 1992.

1. All parishes and major municipalities shall have implementation plans on file. Such a plan shall, at a minimum contain the following:

a. proposed educational programs;

b. recycling programs;

c. incentives to promote recycling and waste reduction;

d. review of recycling products, markets and backup markets;

e. review of existing recycling programs (public and private);

f. contingency measures, if necessary in case of an emergency; and

g. a mathematical formula on how the parish, in conjunction with its municipalities intends to calculate the percentage of waste reduction. Two acceptable methods are as follows.

METHOD ONE

$$\%\ reduction = \frac{A}{A+B} x100$$

A = waste reduction total (tons)

(Waste Reduction Total must be determined as provided in LAC 33:VII.10307.B.1.a.)

B = total waste landfilled (tons)

METHOD TWO

$$Z = \frac{X}{Y}\ x\ 100$$

% Reduction = 100% - Z

X = current year tonnage landfilled.

Y = tonnage landfilled in base year (1989 or another year approved by the administrative authority).

[NOTE: If only volume measurements are available the conversion factor to tons for household garbage is 3.5 cubic yards of household garbage = 1 ton.]

2. Such plan shall be reviewed at least annually by the local governing institution that prepared the plan and the department with the following conditions:

a. revisions or modifications must be submitted to the department when applicable according to these regulations; and

b. an annual progress report must be submitted to the Office of Environmental Services no later than December 31 of each year after submittal and approval.

3. Adequate public notice shall be given by the local governing bodies of the preparation, development, implementation, and annual review of such plan in combination with the following.

a. Each parish shall provide written notice of the following to all municipalities within the parish which are not directly involved with plan development:

i. when the recycling program development begins;

ii. periodic progress reports concerning the preparation of the recycling program;

iii. the availability of the plan for review and comment;

iv. the development of any revisions or modifications to the plan; and

v. the availability of the modified plan for review and comment.

b. Each parish shall seek the input, during the entire planning process, of the general public and/or persons engaged in recycling, waste reduction, and solid waste collection and disposal.

c. Each parish in conjunction with its municipalities is encouraged to inform residents of the full cost of solid waste management.

4. Local governments are encouraged to give consideration to and involve for-profit and non-profit, organizations engaged in collection, marketing, and disposition of recyclable materials in the implementation of such plans.

B. Measurement and Reporting

1. The following credits may be earned in attaining the 25 percent reduction goal.

a. Waste reduction totals resulting from composting, recycling or resource recovery shall be based on the actual volume or tonnage percentage of waste reduction, provided that at least three recycling approaches are utilized (including, but not limited to waste tire recycling, composting, curbside recycling, buyback centers, dropoff centers, etc.).

b. No credit may be earned from volume or weight reductions due to the incineration process, unless this process is part of a waste-to-energy program and does not have a negative impact on the recycling program.

c. Separation of recyclables before incineration may receive credit for volume or weight reduction toward the 25 percent reduction goal.

C.1. The cost of solid waste management within the service area of the parish and for each municipality within the plan (if solid waste is managed by the municipality) must be determined on an annual basis. The cost determination should include:

a. facilities cost (construction, land, etc.);

b. collection;

c. transportation;

d. disposal;

e. recycling;

f. maintenance and monitoring.

2. The cost information should be made available to residents within the parish or municipal service area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:35 (January 1992), repromulgated LR 18:164 (February 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:2157 (October 2007).

## §10309. List of Recyclers and Recyclable Materials

A. The department shall compile, publish, and provide upon request a list of recyclers including their name, address and the materials recycled. The list shall be reviewed and updated annually as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:36 (January 1992).

## §10311. Recycling Fees

A. Effective January 1, 1993, a tipping fee of $0.20 per ton of waste entering a solid waste management facility is hereby established to support local recycling programs. The administrative authority may waive the fee for any solid waste management facility that reaches the 25 percent waste reduction goal and meets the criteria established herein. In the event that it is determined by the administrative authority that a parish and its major municipalities have failed to achieve the 25 percent waste reduction goal by January 1, 1993, a tipping fee may be imposed by the secretary. This fee shall not exceed $0.20 per ton and shall apply to all solid waste generated within the parish that is not recycled or reused. The proceeds of the fee shall be used to administer the provisions of Act 185. The portion of the proceeds which is allocated to the department shall be applied to actual costs of any program developed pursuant to Act 185. The remainder of any fee shall be reimbursed to the payee for use in recycling programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:36 (January 1992).

## §10313. Standards Governing the Accumulation of Recyclable Materials

A. The speculative accumulation of recyclable materials is prohibited. The recyclable materials subject to the speculative accumulation prohibition are those materials that:

1. are not exempt from regulation as a solid waste by federal or state regulations and/or statutes;

2. otherwise meet the definition of solid waste; and

3. are not in compliance with standards governing solid waste accumulation and storage set forth in LAC 33:VII.503 (e.g., such materials have been stored for more than one year without approval from the Office of Environmental Compliance).

B. A recyclable material is not speculatively accumulated, however, if:

1. the person or entity accumulating the material can demonstrate that the material is potentially recyclable, recoverable, and/or reclaimable and has a feasible means of being recycled, recovered, and/or reclaimed; and that—during the calendar year (commencing on January 1) — the amount of material that is recycled, recovered, and/or reclaimed on-site and/or sent off-site for recycling equals at least 50 percent by weight or volume of the amount of the material accumulated at the beginning of the period. In calculating the percentage of turnover, the 50 percent requirement shall be applied to only material of the same type and that is recycled and in the same manner; or

2. the administrative authority otherwise exempts the recyclable material from the standards provided in this Section.

C. The burden of demonstrating that recyclable materials are not being speculatively accumulated shall rest on the person or entity accumulating the materials. Persons or entities accumulating recyclable materials for use, reuse, or recycling shall:

1. be able to demonstrate, to the satisfaction of the administrative authority, their intent to use, reuse, or recycle the materials and that a current or reasonably anticipated future market (or demand) for the use, reuse, or recycling of the material exists;

2. maintain records (e.g., manifests/trip tickets for disposal; bills of sale for materials) specifying the quantities of recyclable materials generated, accumulated and/or transported, prior to use, reuse, or recycling; and

3. maintain records (e.g., manifests/trip tickets for disposal; bills of sale for materials) demonstrating the amount (by weight or volume) of materials used, reused, or recycled.

D. Recyclable materials that are accumulated prior to being recycled shall be stored in an environmentally sound manner and releases to air, water and land shall be minimized to the maximum extent possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:3260 (November 2011).

# Chapter 104. Credit for New Recycling Manufacturing or Process Equipment and/or Service Contracts

## §10401. Authority

A. These regulations are hereby established by the Department of Environmental Quality (DEQ) in consultation with the Louisiana Department of Revenue (LDR) as mandated by Act 319 of the 2005 Regular Session of the Louisiana Legislature. These regulations are to establish technical specifications and certification requirements for the qualification of new recycling manufacturing or process equipment and/or service contracts for the credit against income and corporate franchise taxes provided by R.S. 47:6005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2631 (December 2007).

## §10403. Applicability

A. These regulations apply to taxpayers who purchase *qualified new recycling manufacturing or process equipment* and/or *qualified service contracts*, as defined in LAC 33:VII.10405 and R.S. 47:6005, and who apply for tax credit pursuant to R.S. 47:6005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2631 (December 2007).

## §10405. Definitions

A. For the purpose of this Chapter the terms below shall have the meaning specified herein as follows.

*Beneficial Use*—the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

*Conventional Disposal*—the disposal as waste in a cell at a landfill. It shall not include any application specifically approved by the department as a beneficial use (e.g., alternate daily cover).

*Industrial Solid Waste*—solid waste generated by a manufacturing, industrial, or mining process, or which is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term shall not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste which is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

*Post-Consumer Waste Material*—any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, marketing and disposition and which does not include secondary waste material, hazardous waste, or demolition waste.

*Process*—a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, or amenable for recovery, storage, reshipment, or resale. The definition of *process* shall not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither shall the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

*Qualified New Recycling Manufacturing or Process Equipment*—new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both, and manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material, or both. For purposes of this Chapter, *qualified new recycling manufacturing or process equipment* shall not include vehicles, structures, machinery, equipment, or devices used to store or incinerate waste material, or construction equipment or farm equipment used in the process.

*Qualified Service Contract*—any service contract utilized by a nonhazardous industrial waste generator or a nonhazardous industrial waste beneficial user to implement Department of Environmental Quality-approved beneficial use programs for nonhazardous industrial waste streams as defined under the department's solid waste rules and regulations so as to avoid conventional disposal of such waste in a landfill.

*Recovered Material*—*recovered materials* as defined in R.S. 30:2412 and which would otherwise be processed or disposed of as nonhazardous solid waste.

*Recycling*—any process by which nonhazardous solid waste, or material which would otherwise become solid waste, is collected, separated, or processed and reused or returned to use in the form of raw material or products.

*Secondary Waste Material*—waste material generated after the completion of a manufacturing process.

*Solid Waste*—any garbage, refuse, or sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. *Solid waste* shall not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows; industrial discharges that are point sources subject to permits under R.S. 30:2075; source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended; or hazardous waste subject to permits under R.S. 30:2171 et seq.

*Vehicle*—an automobile; motorcycle; truck; trailer; semitrailer; truck, tractor and semitrailer combination; or any other vehicle used to transport persons or property and propelled by power.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), repromulgated LR 18:960 (September 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2631 (December 2007).

## §10407. Technical Specifications for Qualified New Recycling Manufacturing or Process Equipment and/or Service Contracts

A. In order to qualify for certification as qualified new recycling manufacturing or process equipment and/or a qualified service contract, the equipment and/or service contract must utilize new apparatus used exclusively to process post-consumer waste material and/or involve the processing of post-consumer waste material in a Department of Environmental Quality-approved beneficial use program for nonhazardous industrial solid waste and meet the following requirements:

1. be new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both; or

2. be new manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material, or both; and/or

3. be a service contract associated with the construction and/or operation of new recycling manufacturing or process equipment implementing a Department of Environmental Quality-approved beneficial use program for industrial solid waste; and/or

4. be new parts required to allow recycling manufacturing to continue for equipment that is a part of a previously-approved certification under these regulations; and

5. be used exclusively in the state of Louisiana.

B. The following categories of equipment, and any associated service contracts, will be excluded from certification as qualified new recycling manufacturing or process equipment and/or qualified service contracts:

1. a *vehicle*, as defined in LAC 33:VII.10405, or any service contract associated with the vehicle;

2. structures, machinery, equipment, or devices, or any service contract associated with the structures, machinery, equipment, or devices, used to store or incinerate waste materials; and

3. used equipment, or any service contract associated with the used equipment.

C. The DEQ shall determine the costs to obtain and construct the qualified equipment, as well as the reasonable

amount of the associated qualified service contract, that may be allowed for the credit. When the equipment is built from components and assembled at the installation site or a site separate from the installation site, and subsequently transported and installed at the installation site, the costs of the components, the costs to assemble the components, and the costs to install the components shall be considered the allowed costs. In addition, any qualified service contract necessary to carry out the assembly, transportation, or installation of the qualified equipment shall be considered allowed costs.

D. The costs of materials, labor, and qualified service contracts associated with the project, used to construct a building or other structure necessary to support the equipment or to protect the equipment and operators from the elements while they operate the equipment shall be allowed costs, provided that the building or structure is used exclusively in connection with the recycling operations.

E. Under no circumstances shall any of the following be considered allowed costs:

1. financial charges;

2. the costs of acquiring land or rights in land, including any service contract associated with the costs of acquiring land or rights in land, and any costs incidental thereto, including recording fees; and

3. the costs to construct a building or structure, including any service contract associated with the construction of the building or structure, to store raw material or finished products.

F. The DEQ shall determine the costs to obtain and utilize a service contract by nonhazardous industrial waste generators or nonhazardous industrial waste beneficial users. Beneficial use programs for nonhazardous industrial waste streams shall be defined according to the DEQ's solid waste rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended LR 24:27 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2632 (December 2007).

## §10409. Application Requirements

A. Application Form for Equipment and Qualified Service Contracts

1. In order to qualify for the tax credit provided for in this Chapter, the taxpayer shall apply for certification from the Secretary of the Department of Environmental Quality that the new recycling manufacturing or process equipment purchased, and any associated service contract, is *qualified new recycling manufacturing and process equipment* or a *qualified service contract* as defined in LAC 33:VII.10405 and the equipment or service contract will be used or rendered exclusively in the state of Louisiana.

2. In addition to information provided on the application form, the DEQ may require and the applicant shall provide cost estimates, engineering drawings, specifications sheets, and any other documents necessary to establish with sufficient specificity the equipment and/or associated service contract qualifying for the tax credit.

3. In addition to information provided on the application form, the DEQ may require and the applicant shall provide such documentation as may be necessary to establish with sufficient specificity that the post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste under applicable state and federal law and regulations.

4. In addition, the DEQ may request documentation, in the form of bid amounts or other documentation, that a qualified service contract is for a reasonable amount and that the qualified service contract complies with all existing State of Louisiana Code of Ethics provisions, or otherwise complies with all applicable state and federal law and regulations.

B. The applicant must report final costs of recycling equipment purchases and qualified service contracts to the LDR and the DEQ. Audits will be performed by the LDR and the DEQ as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2632 (December 2007).

## §10411. Applicant Certification

A. Included with the application for certification shall be a statement acknowledging that the applicant shall use a good faith effort to utilize post-consumer waste material or recovered material, or has used the equipment or services contracted for to implement a Department of Environmental Quality-approved beneficial use program for a nonhazardous industrial waste stream, which was generated within the state of Louisiana or was destined to be land-filled within the state.

B. The applicant shall certify to the accuracy of the information contained in the application regarding the equipment or service contract description, the date of purchase, and the cost of the equipment or service contract. The certification shall also state that the equipment and/or service contract is used exclusively in the state of Louisiana and has not previously qualified for a credit pursuant to this Chapter either for the owner or for a previous owner. The certification shall specify the following:

1. the date of purchase of the qualified new recycling manufacturing or process equipment, a description of the equipment, and the cost;

2. the date of the qualified service contract, if any, a description of such contract, and its cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007).

### §10413. Department of Environmental Quality Certification

A. Prior to certification, the Secretary of the Department of Environmental Quality shall determine that any post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste or nonhazardous industrial solid waste under applicable state and federal law and regulations and/or is being used for a qualified beneficial use approved by the DEQ.

B. The Secretary of the Department of Environmental Quality shall examine the application and, if he determines that the equipment and/or service contract described therein is qualified new recycling manufacturing or process equipment and/or a qualified service contract used or rendered exclusively in the state of Louisiana, shall certify that the equipment and/or service contract is eligible for credit against state income and corporation franchise taxes pursuant to R.S. 47:6005.

C. Upon certification, the Secretary of the Department of Environmental Quality shall submit a copy of the signed, certified application to the taxpayer and to the Secretary of the Louisiana Department of Revenue. The secretary shall also submit a copy of the certification to the Commissioner of Administration, who shall approve the certification prior to a credit being granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007).

### §10415. Amount of Credit

A. The maximum total credit related to a purchase of qualified new recycling manufacturing or process equipment and/or a qualified service contract that may be allowable for all taxable periods is 20 percent of the cost of the qualified recycling equipment or qualified service contract, less the amount of any other Louisiana tax credits for the purchase of the equipment or the cost of the service contract. The total tax credits allowed under this Chapter shall be limited to five million dollars per tax year. Example:

| | |
|---|---|
| Cost of equipment | $1,000,000 |
| | X .20 |
| | $ 200,000 |
| Less other Louisiana credit on purchase | $ 100,000 |
| Maximum credit for all taxable periods | $ 100,000 |

B. One-fifth (20 percent) of the maximum total credit related to a purchase of qualified recycling equipment and/or a qualified service contract is earned each taxable period in which the equipment or service contract continues to be in use exclusively in the state of Louisiana to a maximum of five periods. Example:

| | |
|---|---|
| Maximum credit for all taxable periods | $ 100,000 |
| | X .20 |
| Credit earned for this taxable period | $ 20,000 |

C. The maximum credit that may be claimed for all purchases of qualified recycling equipment and/or qualified service contracts, including carryover of previously earned but unused credits, in any taxable period shall not exceed 50 percent of the tax that would be otherwise due. Example:

| | |
|---|---|
| Tax otherwise due: | |
| Income tax | $ 12,000 |
| Franchise tax | $ 18,000 |
| Total | $ 30,000 |
| | X .50 |
| Maximum credit to be claimed on return | $ 15,000 |

D. Any unused credit for a taxable period in which a credit is earned may be carried forward to subsequent years until the credit is exhausted.

E. If the qualified recycling equipment is sold or exchanged before the entire credit is claimed, any unearned portion of the credit shall be canceled for all periods following the period of sale. If a qualified service contract is transferred by virtue of a sale of the qualified recycling equipment or otherwise before the entire credit is claimed, any unearned portion of the credit shall be canceled for all periods following the period of the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007).

## Chapter 105. Waste Tires

### §10501. Purpose

A. The legislature finds that removal of waste tires from the solid waste stream going into landfills currently being utilized for the disposal of solid waste in Louisiana is necessary to protect our environment; prevent nuisances; protect the public health, safety, and welfare; extend the usable life of the facilities; aid in the conservation and recovery of valuable resources; and to conserve energy by efficient reuse of these products, thereby benefiting all citizens of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994).

## §10503. Administration

A. This program shall be administered by the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000).

## §10505. Definitions

A. The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

*Act*—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

*Adjustment Tire*—a tire that becomes unusable for any reason within the manufacturer's control and is returned to the dealer under a tire warranty by the tire manufacturer. Tire adjustments are initiated by the consumer.

*Administrative Authority*—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

*Agreement*—a written contract or other written arrangement between recipient persons and the administrative authority that outlines specific goals or responsibilities.

*Applicant*—any person submitting a grant and or loan application for funds from the Waste Tire Management Fund.

*Authorization Certificate*—written authorization issued by the administrative authority.

*Clean Closure*—the act of closing a facility whereby all waste tires and waste tire material are removed, including any resulting on-site or off-site contamination.

*Collection Center*—a permitted or authorized location denoted on an authorization certificate where waste tires and waste tire material can be stored and/or collected.

*Collector*—a person who operates a collection center.

*Department*—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

*Destination Facility*—a facility where waste tires and/or waste tire material is processed, recycled, collected, stored and/or disposed after transportation.

*Disease Vector*—animals such as rodents, fleas, flies, mosquitoes and other arthropods that are capable of transmitting diseases to humans.

*Disease Vector Control Plan*—a plan approved by the administrative authority to control the growth and spread of disease vectors.

*Disposal*—the depositing, dumping, or placing of waste tires or waste tire material on or into any land or water so that such waste tires, waste tire material, or any constituent thereof, may have the potential for entering the environment, or being emitted into the air, or discharged into any waters of Louisiana.

*Facility*—any land and appurtenances thereto used for storage, processing, recycling, and/or disposal of solid waste or tire material, but possibly consisting of one or more units. (Any earthen ditches leading to or from a facility that receive waste are considered part of the facility to which they connect; except ditches which are lined with materials which are capable of preventing groundwater contamination.)

*Fraudulent Taking*—the value gained from acts committed by an offender in violation of LAC 33:VII.10537.E.

*Generator*—a facility that generates waste tires as a part of its business operations.

*Government Agencies*—local, parish, state, municipal, and federal governing authorities having jurisdiction over a defined geographic area.

*Grant*—any funds awarded by the department from the Waste Tire Management Fund to a person subject to a grant agreement.

*Grant Agreement*—a written contract or other written agreement between the department and the recipient of a grant that defines the conditions, goals, and responsibilities of the recipient and the department.

*Grant Application*—an application meeting the requirements of LAC 33:VII.10541 from a person making a request for a grant from the Waste Tire Management Fund.

*Grantee*—the recipient of a grant or loan.

*Loan*—any issuance of funds by the department from the Waste Tire Management Fund to a person subject to a loan agreement.

*Loan Agreement*—a written contract or other written agreement between the department and the recipient of a loan that defines the conditions, goals, and responsibilities of the recipient and the department.

*Loan Application*—an application meeting the requirements of LAC 33:VII.10541 from a person making a request for a loan from the Waste Tire Management Fund.

*Major Highway*—all asphaltic concrete and concrete interstate and intrastate highways and roads maintained by the United States government or Louisiana state government, or both, or any agencies or departments thereof.

*Manifest*—the form, provided by the department, used for identifying the quantity, composition, origin, routing, and destination of waste tires and/or waste tire material during transportation from the point of generation to the authorized destination.

*Marketing*—the selling and transferring of waste tires or waste tire material for recycling and/or beneficial use or reuse.

*Medium Truck Tire*—a tire weighing 100 pounds or more and normally used on semi-trailers, truck-tractor, semi-trailer combinations or other like vehicles used primarily to commercially transport persons or property on the roads of this state or any other vehicle regularly used on the roads of this state.

*Mobile Processor*—a standard permitted processor who has processing equipment capable of being moved from one location to another.

*Modification*—any change in a site, facility, unit, process or disposal method, or operation that deviates from the specification in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specification of the permit is not considered a modification.

*Motor Vehicle*—an automobile, motorcycle, truck, trailer, semi-trailer, truck-tractor and semi-trailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power.

*Motor Vehicle Dealer*—any person, business, or firm registered with the state of Louisiana that engages in the commercial sale of new motor vehicles.

*Off-Road Tire*—a tire weighing 100 pounds or more and that is normally used on off-road vehicles.

*Off-Road Vehicle*—a vehicle used for construction, farming, industrial uses, or mining, not normally operated on the roads of the state. This term does not include vehicles propelled solely by muscular power.

*Passenger/Light Truck/Small Farm Service Tire*—a tire weighing less than 100 pounds and normally used on automobiles, pickup trucks, sport utility vehicles, front steer tractors, and farm implement service vehicles.

*Permittee/Permit Holder*—a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

*Person*—an individual, trust, firm, joint-stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

*Premises*—a unit of land and/or buildings, or any portion thereof. Property shall be considered as contiguous parcels even if separated by a utility easement or road or railroad right of way.

*Processing*—any method or activity that alters whole waste tires so that they are no longer whole; such as, cutting, slicing, chipping, shredding, distilling, freezing, or other processes as determined by the administrative authority. At a minimum, a tire is considered processed only if its volume has been reduced by cutting it in half along its circumference.

*Processor*—a person that collects and processes waste tires.

*Program Eligible Waste Tires*—those waste tires generated within Louisiana.

*Qualified Recycler*—any entity who uses waste tire material in a beneficial manner as determined by the administrative authority.

*Qualified Scrap or Salvage Yard*—any facility that is required to be licensed pursuant to R.S. 32:752.

*Recall Tire*—a tire that is specified as defective by the manufacturer and returned to the dealer so that the dealer may provide a replacement or repair. Recalls are initiated by the manufacturer.

*Recapped or Retreaded Tire*—any tire that has been reconditioned from a used tire and sold for use on a motor vehicle.

*Recycling*—any process by which waste tires, waste tire material, or residuals are reused or returned to beneficial use in the form of products or as a fuel source.

*Sale of a Motor Vehicle*—any sale and/or lease of a motor vehicle that would require registration, under the name of the consumer, with the Louisiana Office of Motor Vehicles.

*Standard Permit*—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, or closure of facilities or equipment used or intended to be used to process or collect waste tires in accordance with the act, these regulations, specified terms and conditions, and the permit application.

*Temporary Permit*—a written authorization issued by the administrative authority for a specific amount of time to a person for the construction, installation, operation, closure, or post-closure of a particular facility used or intended to be used for processing waste tires or waste tire material in accordance with the act, these regulations, and specified terms and conditions.

*Tire*—a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle or off-road vehicle.

*Tire Dealer*—any person, business, or firm that engages in the sale of tires, including recapped or retreaded tires, for use on motor vehicles.

*Tire Wholesaler*—any wholesaler, supplier, distributor, jobber, or other entity who distributes tires to retail dealers in this state or to its own retail establishments in this state.

*Transporter*—a person who transports waste tires.

*Unauthorized Waste Tire Pile*—a pile in excess of 20 waste tires whose storage and/or disposal is not authorized by the administrative authority.

*Used Tire*—a tire that can be salvaged and sold as a good, functional vehicle tire.

*Used Tire Dealer*—any person, business, or firm that engages in the sale of used tires for use on motor vehicles.

*Waste Tire*—a whole tire that is no longer suitable for its original purpose because of wear, damage, or defect. *Waste tire* does not include a tire weighing over 500 pounds and/or a solid tire.

*Waste Tire Generation*—the replacement of an unserviceable tire with a serviceable tire. The sorting, collection, exchange, trade, or transportation of waste tires is not waste tire generation.

*Waste Tire Material*—waste tires after processing; such as, but not limited to, chipped, shredded, cut, or sliced tires, crumb rubber, steel cord, cord material, oil, or carbon black.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:829 (June 2001), LR 27:2226 (December 2001), LR 28:1953 (September 2002), LR 29:2779 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005), LR 33:89 (January 2007).

## §10507. Exemptions

A. Any persons, facilities, or other entities subject to these regulations may petition the department for exemption from these regulations or certain portions thereof in accordance with LAC 33:VII.307.

B. A vehicle operated by a local governmental body that is engaged in the collection of waste tires that are located on governmental property or on road rights of way with the tires to be taken to an authorized waste tire collection center or permitted processing facility may be granted an exemption to the transporter authorization application fee and the transporter maintenance and monitoring fee specified in LAC 33:VII.10535. A maximum of one vehicle is allowed for each governmental body under this exemption. In order to be recognized as exempt under this Subsection, the local governmental body shall submit a transporter notification form to the administrative authority indicating the governmental body's desire to take advantage of this exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), LR 27:2227 (December 2001).

## §10509. Prohibitions and Mandatory Provisions

A. No person may knowingly or intentionally dispose unprocessed waste tires in a landfill within the boundaries of Louisiana.

B. Upon promulgation of these regulations, no person may store more than 20 whole waste tires unless they are authorized by the administrative authority and:

1. collected and stored at a registered tire dealer, registered used tire dealer, or registered other generator of waste tires;

2. collected and stored at an authorized waste tire collection center or permitted waste tire processing facility; or

3. collected and stored at an authorized waste tire recycling facility.

C. No person may transport more than 20 waste tires without first obtaining a transporter authorization certificate.

D. No person may receive payment from the Waste Tire Management Fund for processing tires without a standard permit issued by the department.

E. No regulated generator, collector, or processor may store any waste tire for longer than 365 days.

F. All persons subject to these regulations are subject to inspection and/or enforcement action by the administrative authority, in accordance with LAC 33:VII.10537.

G. All persons subject to these regulations shall maintain all records required to demonstrate compliance with these regulations for a minimum of three years. The department may extend the record retention period in the event of an investigation. The records shall be maintained at the regulated facility or site unless an alternate storage location is approved in writing by the administrative authority. All records shall be produced upon request for inspection by the department.

H. All persons who sell tires shall retain and make available for inspection, audit, copying, and examination, a record of all tire transactions in sufficient detail to be of value in determining the correct amount of fee due from such persons. The records retained shall include all sales invoices, purchase orders, inventory records, and shipping records pertaining to any and all sales and purchases of tires. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A).

I. Each tire wholesaler shall maintain a record of all tire sales made to dealers in this state. This recordkeeping provision does not require anything more than what is already required by R.S. 47:309(A). These records shall contain and include the name and address of each tire purchaser and the number of tires sold to that purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001

(September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005).

## §10511. Permit System

A. Permit Requirements

1. Scope. Persons, other than generators and government agencies, operating collection facilities that collect waste tires and/or waste tire material and/or process waste tires or waste tire material for payment from the Waste Tire Management Fund must secure a permit and are subject to the requirements detailed in these regulations.

2. Types of Permits

a. Temporary Permits. A temporary permit allows continued operation of an existing collector and/or processor, in accordance with an approved interim operational plan, but does not allow the expansion or modification of the facility without approval of the administrative authority. The administrative authority may issue a temporary permit in the following situations.

i. Order to Upgrade—to allow operations to continue at an existing facility while a standard permit application is being processed; or

ii. Order to Close—to allow operations to continue at an existing facility while a closure plan is being processed or while a facility is being closed in accordance with a closure plan.

b. Standard Permit. The permit issued by the administrative authority to applicants of facilities that have successfully completed the standard permit application process.

3. Permit Provisions

a. Permit Duration. A standard permit issued under Paragraphs A.1 and 2 of this Section shall be valid for five years from the date of issuance.

b. Transfer of Permit. Permits issued pursuant to these regulations are assigned only to the permittee and cannot be transferred, sublet, leased, or assigned, without prior approval of the administrative authority.

B. Modifications. Modification requests shall be tendered in accordance with LAC 33:VII.517. No modifications shall be made to the permit or facility without prior written approval from the administrative authority.

C. Suspension or Revocation of Permit. The administrative authority may review a permit at any time. After review of a permit, the administrative authority may, for cause, suspend or revoke a permit in whole or in part in accordance with procedures outlined in LAC 33:VII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000).

## §10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

A. Applicant Public Notice

1. No sooner than 45 days prior to the submittal of a standard permit application to the Office of Environmental Services, the prospective applicant shall publish a notice of intent to submit an application for a waste tire standard permit. This notice shall be published one time as a single classified advertisement measuring 3 columns by 5 inches, in the legal or public notices section of the official journal of this state and a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring 3 columns by 5 inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

2. The public notice shall be published in accordance with the form provided by the administrative authority.

3. Proof of publication of the notice shall be included in the waste tire standard permit application.

B. Submittal of Permit Applications

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit four copies to the Office of Environmental Services. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

2. Each waste tire standard permit application shall be accompanied by a remittance in the full amount of the appropriate waste tire standard permit application fee. No application shall be accepted or processed prior to payment of the full amount as specified in LAC 33:VII.10535.

C. Requirements for Public Notification of Permit Application

1. As provided in R.S. 30:2022 and 2418, upon receipt of a permit application the department shall provide written notice on the subject matter to the parish governing authority and each municipality affected by the application.

2. The department shall hold a public hearing within 60 days of submission of an application.

3. The applicant shall cause the notice of the hearing to be published in the official journal of the parish or municipality on two separate days preceding the hearing. The last day of publication of such notice shall be at least 10 days prior to the hearing. The applicant shall provide the department with proof of publication.

4. The applicant shall post a notice of the hearing, in prominent view of the public, for two weeks prior to the hearing, in the courthouse, government center, and all the libraries of the parish.

5. A public comment period of at least 30 days shall be allowed following the public hearing.

D. Permit Application Review and Evaluation

1. The applicant shall make available to the department the assistance of registered engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

2. The applicant shall furnish all other technical information the department may require to evaluate the waste tire standard permit application, monitor the performance of the facility, and ensure that the purposes of this program are met.

E. Waste Tire Standard Permit Application Review

1. An application deemed unacceptable for technical review shall be rejected. Applications shall be subject to the completeness review requirements of LAC 33:I.1505.A.

2. Applications shall be subject to the technical review requirements of LAC 33:I.1505.B.

3. Closure plans that are determined to be unacceptable for a technical review shall be rejected. The applicant shall be required to resubmit the closure plan to the administrative authority.

4. An applicant whose closure plan is acceptable for technical review, but lacks the necessary information, shall be informed of such in a closure plan deficiency letter. These deficiencies shall be corrected by submission of supplementary information within 30 days after receipt of the closure plan deficiency letter. Closure plans that have been deemed technically complete shall be approved.

F. Standard Permit Applications Deemed Technically Complete

1. An application that has been deemed technically complete will be accepted for public review. When the permit application is accepted for public review, the administrative authority shall request an additional six copies, or more if necessary. The copies shall be distributed for public review as follows:

a. one copy to the local parish governing authority;

b. one copy to the municipal governing authority;

c. one copy to each parish public library;

d. one copy to a department regional office; and

e. two copies to remain with the administrative authority.

2. Each copy of the permit application shall be provided as a standard three-ring-bound document (8 1/2 by 11 inches). The application shall incorporate, in the appropriate sections, all required plans, narratives, and revisions made during the review process and shall include appropriate tabbing for all appendices, figures, etc. A permit application that presents revisions made during the review process as a separate supplement to the application shall not be accepted.

3. After the six copies are submitted to the department, a notice shall be placed in the office bulletin (if one is available), the official journal of the state, and a major local newspaper of general circulation. The department shall publish a notice of acceptance for review one time as a single classified advertisement measuring 3 columns by 5 inches in the legal or public notices section of the official journal of the state and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring 3 columns by 5 inches in the official journal of the state shall be the only public notice required. The notice shall solicit comment from interested individuals and groups. Comments received by the administrative authority within 30 days after the date the notice is published in the local newspaper shall be reviewed by the department. The notice shall be published in accordance with the sample public notice provided by the department.

4. A public hearing shall be held for any proposed standard permit application when the administrative authority determines, on the basis of comments received and other information, that a hearing is necessary.

5. Public Opportunity to Request a Hearing. Any person may, within 30 days after the date of publication of the newspaper notice required in Paragraph F.3 of this Section, request that a public hearing be held. If the administrative authority determines that the hearing is warranted, a public hearing shall be held. If the administrative authority determines not to hold the requested hearing, the department shall send the person requesting the hearing written notification of the determination. The request for a hearing must be in writing and must contain the name and affiliation of the person making the request and the comments in support of or in objection to the issuance of a permit.

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, a notice shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring 3 columns by 5 inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring 3 columns by 5 inches in the official journal of the state shall be the only public notice required. Those persons on the department's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

7. Receipt of Comments Following a Public Hearing. The department shall receive comments for 30 days after the date of a public hearing.

G. Issuance or Denial of a Permit

1. The administrative authority shall issue a standard permit or shall issue a standard permit application denial, including reasons for the denial.

2. A temporary permit may be issued to allow closure activities to be accomplished at a facility which has been issued a standard permit application denial.

H. Public Notice of Permit Issuance. No later than 10 days following the issuance of a standard permit, the permit holder shall publish a notice of the issuance of the standard permit. This notice shall be published in the official journal of the state and in a major local newspaper of general circulation. The notice shall be published one time as a single classified advertisement measuring 3 columns by 5 inches in the legal or public notices section of the official journal of the state, and one time as a classified advertisement in the legal or public notices section of a major local newspaper of general circulation. If the affected area is Baton Rouge, a single classified advertisement measuring 3 columns by 5 inches in the official journal of the state will be the only public notice required. The permit holder shall provide proof of publication of the notice(s) to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), LR 27:829 (June 2001), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:2157 (October 2007).

## §10515. Agreements with Waste Tire Processors

Standard permitted waste tire processors may apply to the Office of Management and Finance for subsidized funding to assist them with waste tire processing and marketing costs. This application form is available from the Office of Management and Finance.

A. Maximum Payments to Processors

1. Standard permitted processors shall be eligible to receive a minimum of $1.50 per tire equivalent unit of 20 pounds of waste tire material that is actually recycled or that reaches certifiable end-market uses provided.

a. Standard permitted processors shall provide documentation to prove that they are contracted with a qualified recycler. Proof shall be provided in the form of a letter or other document from the qualified recycler.

b. Standard permitted processors shall provide a certificate of end use demonstrating that the waste tire material has been recycled.

c. Standard permitted processors shall provide a Department of Agriculture certified scale-weight ticket including gross, tare and net weights.

2. Standard permitted processors shall be eligible to receive a minimum of $1.50 per 20 pounds of whole waste tire that is marketed and shipped to a qualified recycler in accordance with LAC 33:VII.10535.D.4.

a. Standard permitted processors must apply and obtain approval from the department in order to market and ship whole waste tires. At this time they shall provide a detailed description of the operational plan to market and ship whole waste tires to a qualified recycler, including:

i. shipping destination;

ii. place of origin of the tires;

iii. name of the qualified recycler;

iv. method of recycling authorized or allowed under applicable state and federal laws;

v. detailed description of product material or fuel source; and

vi. a copy of an agreement with the qualified recycler who will accept whole waste tires for recycling.

b. The standard permitted processor shall ensure the qualified recycler accepts whole waste tires or baled waste tires from the processor in accordance with its agreement and Subparagraph A.2.a of this Section.

B. The standard permitted processor shall provide, with the monthly report required by LAC 33:VII.10535.D.6, a certificate of end use by the qualified recycler, demonstrating that it has recycled the waste tires or waste tire material.

C. The standard permitted processor shall comply with LAC 33:VII.10533.

D. The standard permitted processor shall provide all documentation to demonstrate that all the requirements of this Section have been met.

E. Once the application is approved, the department shall issue an agreement in accordance with Subsection A of this Section.

F. General Conditions of Agreements. It shall be the responsibility of processors to make payments to authorized waste tire transporters who provide them with waste tires. This includes making payments to local governmental bodies acting as transporters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:2158 (October 2007).

## §10517. Standard Waste Tire Permit Application

Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application, including, but not limited to, the information included in this

Section and submit it to the Office of Environmental Services.

A. Processing Facility. The permit application shall include:

1. the name of the applicant;

2. the name and phone number of the owner/contact;

3. the business address, including city, state, parish, and zip code;

4. the location of the processing/collection facility, including section, township, and range;

5. the business telephone number;

6. the federal identification number and state tax identification number;

7. the name, address, and phone number of a contact person in case of an emergency, other than the individual specified in Paragraph A.2 of this Section;

8. a certification in writing that all the information provided in the application and in accordance with the application is true and correct. Providing false or incorrect information may result in criminal or civil enforcement. The applicant shall also provide the site master plan, including property lines, building, facilities, excavations, drainage, roads, and other elements of the process system employed, certified by a registered engineer licensed in the state of Louisiana;

9. a copy of written notification to the appropriate local governing authority, stating that the site is to be used as a waste tire processing and/or collection facility;

10. written documentation from the appropriate local governing authority, stating that the facility is in compliance with local zoning and permitting requirements;

11. written documentation from the property owner granting approval for use of property as a waste tire processing and/or collection facility, if property owner is other than applicant;

12. proof of publication of Notice of Intent to submit an application for a standard waste tire permit;

13. a letter of compliance and certification of premises and buildings from the state fire marshal;

14. an operational plan addressing the following:

a. facility access and security;

b. waste tire acceptance plan, to count, record, and monitor incoming quantities of waste tires;

c. method to control water run-on/runoff;

d. days and hours of operation;

e. waste tire storage method:

i. dimensions of waste tire piles;

ii. maximum number of waste tires and volume of waste tire material to be stored at any one time. The total amount of waste tires and volume of waste tire material shall not exceed 60 times the daily capacity of the processing unit;

iii. width of fire lanes;

iv. method of storage to exclude standing water, including inside storage;

v. type of access roads and buffer zones; and

vi. emergency control plans in case of fire or accident, etc.;

f. a detailed description of the waste tire processing method to be used, including daily capacity;

g. site grounds maintenance and disease vector control to minimize vector-breeding areas and animal attraction;

i. controlling fly, mosquito, and other insect emergence and entrance;

ii. controlling rodent burrowing for food or harborage; and

iii. controlling bird and animal attraction;

h. buffer zones;

i. method to store waste tire material in detail;

j. end market of the waste tire material; and

k. method to control and/or treat any process water;

15. evidence of general liability insurance in the amount of $1 million provided by an insurer who is admitted, authorized, or eligible to conduct insurance business in Louisiana;

16. site closure plan to assure clean closure. The closure plan must be submitted as a separate section with each application. The closure plan for all facilities must ensure clean closure and must include the following:

a. the method to be used and steps necessary for closing the facility;

b. the estimated cost of closure of the facility, based on the cost of hiring a third party to close the facility at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive;

c. an estimate of the maximum inventory of whole waste tires and waste tire material on-site at any one time over the active life of the facility;

d. a schedule for completing all activities necessary for closure; and

e. the sequence of final closure as applicable;

17. site closure financial assurance fund;

18. plans, specifications, and operations represented and described in the permit application or permit

modifications for all facilities must be prepared under the supervision of and certified by a registered engineer licensed in the state of Louisiana;

19. certification. The applicant must provide and sign legal certification that all information provided in the application is true and correct with the knowledge of the possibility of punishment under the law for false information;

20. signature and date; and

21. name of authorized agent of process, if applicable.

B. Waste Tire Collection Center. Waste tire processors or other persons may operate a waste tire collection center in accordance with LAC 33:VII.10527. All information required in Subsection A of this Section must be provided in a permit application for each waste tire collection center.

C. Governmental Agencies. Government agencies intending to operate collection centers and/or tire processing equipment for the purposes of volume reduction prior to disposal will not be required to possess permits provided that:

1. the governmental agency collection centers shall be located on property owned or otherwise controlled by the governmental agency, unless otherwise authorized by the department;

2. governmental agency collection centers shall be attended during operational hours and have controlled ingress and egress during non-operational hours;

3. governmental agency collection center personnel shall witness all loading and unloading of waste tires;

4. governmental agency collection centers may accept waste tires from roadside pickup, from rights-of-way, individual residents, and unauthorized waste tire piles. For the tires from unauthorized waste tire piles to be eligible for the $1.50 per 20 pounds marketing payment to permitted processors as indicated in LAC 33:VII.10535, the governmental agency must notify the Office of Management and Finance, in writing, of the agency's intent prior to removing the tires from said site;

5. governmental agencies shall develop fire control plans and disease vector control plans for the collection center and/or tire processing equipment; and

6. governmental agencies shall satisfy the requirements of LAC 33:VII.10509 and 10533.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:830 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2502 (October 2005), LR 33:2158 (October 2007).

## §10519. Standards and Responsibilities of Generators of Waste Tires

A. Within 30 days of commencement of business operations, generators of waste tires shall notify the Office of Environmental Services of their existence and obtain a generator identification number prior to initiating a waste tire manifest. Notification shall be on a form provided by the Office of Environmental Services.

B. Tire dealers must accept from the purchaser, at the time of purchase, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire.

C. Each tire dealer, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, doing business in the state of Louisiana shall be responsible for the collection of the $2 waste tire fee upon the sale of each passenger/light truck tire, $5 waste tire fee upon the sale of each medium truck tire, and $10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of $1.25 shall be collected upon the sale of each recapped or retreaded tire. *Tire dealer* includes any dealer selling tires in Louisiana, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

D. Each dealer of passenger/light truck tires, medium truck tires, or off-road tires shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance) to the Office of Management and Finance on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

E. Tire dealers must provide notification to the public sector via signs made available by the Office of Management and Finance indicating that:

1. "It is unlawful for any person to dispose, discard, burn, or otherwise release waste tires to the environment in a manner in contravention to the Louisiana Solid Waste

Regulations. A fine of up to $25,000 per day per violation may be imposed on any company or individual who violates these rules and regulations."

2. "All Louisiana tire dealers, other than qualified scrap or salvage yard tire dealers selling tires salvaged from a Louisiana-titled vehicle, are required to collect a waste tire cleanup and recycling fee of $2 for each passenger/light truck tire, $5 for each medium truck tire, and $10 for each off-road tire, upon sale of each tire. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. No fee shall be collected on tires weighing more than 500 pounds or solid tires. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire."

3. "Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale."

F. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice. No tax of any kind shall be applied to this fee.

G. Generators of waste tires shall comply with the manifest requirements of LAC 33:VII.10533.

H. For all waste tires and waste tire material collected and/or stored, generators must provide:

1. a cover adequate to exclude water from the waste tires;

2. vector and vermin control; and

3. means to prevent or control standing water in the containment area.

I. Generators of waste tires may store waste tires up to 120 days after receipt or generation; however, a generator of waste tires may store waste tires a maximum of 365 days, provided:

1. the storage is solely for the purpose of accumulating such quantities as are necessary to facilitate proper processing;

2. documentation supporting the storage period and the quantity required for proper processing are available at the generator's facility for department inspection; and

3. no more than 150 tires shall be stored at the generator's place of business at one time, unless stored in a transportable collection container.

J. All waste tires and waste tire material must be collected and/or stored on property contiguous to the tire dealership or other waste tire generator facility.

K. No generator shall allow the removal of waste tires from his place of business by anyone other than an authorized transporter, unless the generator generates 50 or less waste tires per month from the sale of 50 tires. In this case, the generator may transport his waste tires to an authorized collection or permitted processing facility provided LAC 33:VII.10523.C is satisfied.

L. A generator who ceases the sale of tires at the registered location shall notify the Office of Management and Finance within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

M. Generators of waste tires shall segregate the waste tires from any usable tires offered for sale.

N. Governmental agencies are not required to comply with this Section, except Subsections A, G, I, and J of this Section.

O. All tire wholesalers shall keep a record of all tire sales made in Louisiana. These records shall contain the name and address of the purchaser, the date of the purchase, the number of tires purchased, and the type and size of each tire purchased. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

P. All generators of waste tires (e.g., new tire dealers, used tire dealers, qualified scrap or salvage yards, and recappers) shall maintain a complete record of purchase invoices, inventory records, and sales invoices for a period of no less than three years. Qualified scrap or salvage yard tire dealers shall make available to the administrative authority the register of business transactions as required by R.S. 32:757(A), and also maintain a record of the number of tires recovered from Louisiana-titled vehicles, which tires are resold. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours. Qualified scrap or salvage yard tire dealers are only exempt on tires salvaged from Louisiana-titled vehicles through June 30, 2008. Any new or used tires sold by qualified scrap or salvage yard tire dealers that are not salvaged from Louisiana-titled vehicles shall have the appropriate fees collected upon the sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:90 (January 2007), LR 33:2158 (October 2007).

## §10521. Standards and Responsibilities of Motor Vehicle Dealers

A. All existing motor vehicle dealers shall notify the Office of Management and Finance of their existence and obtain an identification number. Notification shall be on a form provided by the Office of Management and Finance. Any new motor vehicle dealer shall notify the Office of Management and Finance within 30 days of commencement of business operations.

B. Motor vehicle dealers doing business in the state of Louisiana, who sell new vehicles, shall be responsible for the collection from the consumer of the $2 waste tire fee for each tire upon the sale of each vehicle that has passenger/light truck tires, the $5 waste tire fee for each tire upon the sale of each vehicle that has medium truck tires, and the $10 waste tire fee for each tire upon the sale of each off-road vehicle. No fee is collected on the designated spare tire.

C. Motor vehicle dealers shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance) to the Office of Management and Finance on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each motor vehicle dealer is required to make a report and remit the fee imposed by this Section and shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of vehicles sold, together with vehicle purchase and sales invoices, and inventory records, for a period of no less than three years. These records shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

D. Motor vehicle dealers must provide notification to the public via a sign made available by the Office of Management and Finance, indicating that:

> "All Louisiana motor vehicle dealers selling new vehicles are required to collect a waste tire cleanup and recycling fee from the consumer of $2 for each tire upon the sale of each vehicle that has passenger/light truck tires, $5 for each tire upon the sale of each vehicle that has medium truck tires, and $10 for each tire upon the sale of each off-road vehicle. These fees shall also be collected upon replacement of all recall and adjustment tires. No fee shall be collected on the designated spare tire."

E. The waste tire fee established by R.S. 30:2418 shall be listed on a separate line of the retail sales invoice or buyers order. No tax of any kind shall be applied to this fee.

F. A motor vehicle dealer who ceases the sale of motor vehicles at the registered location shall notify the Office of Management and Finance, within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the motor vehicle sales and monthly report records.

G. Motor vehicle dealers, who generate waste tires, shall comply with the manifest requirements of LAC 33:VII.10533.

H. Motor vehicle dealers shall comply with LAC 33:VII.10519.H for all waste tires and waste tire material collected and/or stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:91 (January 2007), LR 33:2158 (October 2007).

## §10523. Standards and Responsibilities of Waste Tire Transporters

A. Transporters of waste tires shall complete the application for transporter authorization form and submit the application, with the payment of the transporter fees as specified in LAC 33:VII.10535.A, to the Office of Management and Finance.

B. A transporter authorization certificate shall be valid for a maximum of one year from the date of issuance. All transporter authorization certificates expire on June 30 of each calendar year. The administrative authority shall issue to the transporter an appropriate number of transporter decals to be placed in accordance with Subsection F of this Section.

C. No person shall transport more than 20 waste tires without a completed manifest satisfying the requirements of LAC 33:VII.10533.

D. For in-state waste tire transportation, the transporter shall transport all waste tires to an authorized collection center or a permitted processing facility.

E. Any person who engages in the transportation of waste tires from Louisiana to other states or countries or from other states to Louisiana, or persons who collect or transport waste tires in Louisiana, but have their place of business in another state, shall comply with all of the requirements for transporters contained in this Section.

F. The transporter shall affix to the driver's door, along with the transporter decal, and the passenger's door of each truck or tractor listed on the notification form, the authorization certificate number in characters no less than 3 inches in height.

G. All persons subject to this Section shall notify the Office of Management and Finance in writing within 10 days when any information on the authorization certificate form changes, or if they close their business and cease transporting waste tires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2778 (December 2000), LR 27:831 (June 2001), repromulgated LR 27:1885 (November 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:2159 (October 2007).

## §10525. Standards and Responsibilities of Waste Tire Processors

A. Receipt of Tires

1. Upon receiving a shipment containing waste tires, the processor shall be responsible for verifying the number of waste tires in the shipment by actually counting each waste tire. The processor shall sign each waste tire manifest upon receiving waste tires. Processors can be reimbursed from the Waste Tire Management Fund for only those eligible tires accepted from authorized Louisiana transporters or from generators as specified in LAC 33:VII.10519.K.

2. Each processor shall accept no more than five unmanifested tires per day per customer. The processor shall maintain a log for all unmanifested loads. The log shall include, at the minimum, the following:

a. the name and address of the customer;

b. the license plate number of the vehicle delivering the tires;

c. the phone number of the customer;

d. the number of tires received;

e. the date;

f. the time; and

g. the signature of the customer delivering the tires.

B. On a form obtained from the Office of Management and Finance, all processors shall submit to the Office of Management and Finance a monthly report which shall include a certified record of pounds of tires processed during the month, along with all completed manifests for the month and the log recording all unmanifested waste tires deposited at the facility. The monthly report shall also include a certified record of the pounds of waste tire material that have been marketed and delivered as a product or raw material for beneficial reuse. An alternative method of reporting sale of waste tire material shall be developed and approved for each processor that uses a process other than shredding. The alternative method shall be approved by the administrative authority.

C. Waste tire facility operators shall provide completed copies of waste tire manifests to the appropriate waste tire generator within 30 days of the origination date of the manifest.

D. All waste tire facilities must meet the following standards.

1. All processors shall control ingress and egress to the site through a means approved by the administrative authority, with at least one entrance gate being a minimum of 20 feet wide.

2. All facilities shall have a buffer zone of 100 feet. Waste tires and waste tire material shall not be placed in the buffer zone.

3. Fire Protection

a. There shall be no open burning.

b. The facility operator shall enter into a written agreement with the local fire department regarding fire protection at the facility.

c. The facility operator shall develop and implement a fire protection and safety plan for the facility to ensure personnel protection and minimize impact to the environment.

4. Suitable drainage structures or features shall be provided to prevent or control standing water in the waste tires, waste tire material, and associated storage areas.

5. All water discharges, including stormwater runoff, from the site shall be in accordance with applicable state and federal rules and regulations.

6. All waste tire processors, collectors, and associated solid waste management units shall comply with LAC 33:VII.Subpart 1.

7. Waste tires and waste tire material shall be treated according to an acceptable and effective disease vector control plan approved by the administrative authority.

8. Waste tires and waste tire material stored outside shall be maintained in piles, the dimensions of which shall not exceed 10 feet in height, 20 feet in width, and 200 feet in length or in such dimensions as approved by the administrative authority.

9. Waste tire or waste tire material piles shall be separated by lanes with a minimum width of 50 feet to allow access by emergency vehicles and equipment.

10. Access lanes to and within the facility shall be free of potholes and ruts and be designed to prevent erosion.

11. The storage limit for waste tires and waste tire material shall be no more than 60 times the daily permitted processing capacity of the processing facility.

12. All waste tire facility operators shall maintain a site closure financial assurance fund in an amount based on the maximum number of pounds of waste tire material that will be stored at the processing facility site at any one time. This fund shall be in the form of a financial guarantee bond, performance bond, or an irrevocable letter of credit in the amount of $20 per ton of waste tire material on the site. A standby trust fund shall be maintained for the financial assurance mechanism that is chosen by the facility. The

financial guarantee bond, performance bond, irrevocable letter of credit, or standby trust fund must use the exact language included in the documents in LAC 33:VII.11101.Appendix A. The financial assurance must be reviewed at least annually.

13. An alternative method of determining the amount required for financial assurance shall be as follows:

a. the waste tire facility operator shall submit to the Office of Management and Finance an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the waste tire facility operator shall also submit to the Office of Management and Finance two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material, transportation to a permitted disposal site, and the disposal cost; and

c. if the estimates provided are lower than the required $20 per ton of waste tire material, the administrative authority shall evaluate the estimates submitted and determine the amount of financial assurance that the processor is required to provide.

14. Financial assurances for closure and post-closure activities must be in conformity with the standards contained in LAC 33:VII.727.A.2.i.

E. Mobile Processors

1. Only standard permitted processors shall be eligible to apply for mobile processor authorization certificates. Any mobile processor without a standard permit whose certificate expires after the effective date of these regulations may have the certificate renewed for a one-time period of 365 days upon request of the mobile processor.

2. The appropriate mobile processor application fee must be submitted with the application in accordance with LAC 33:VII.10535.A.3.

3. Upon review and approval of the mobile processor authorization application form, the administrative authority shall issue a mobile processor authorization certificate.

4. A mobile processor authorization certificate shall be valid for one year from the date of issuance.

5. Each applicant requesting a mobile processor authorization certificate pursuant to these regulations shall complete the mobile processor authorization application form, including, but not limited to, the following information:

a. the name of the business owner;

b. the name of the business or organization;

c. the business location address, including street, city, state, parish, and zip code;

d. the complete mailing address;

e. the business telephone number;

f. the name, business address, and telephone number of the contact person associated with the applicant;

g. the federal identification number of the business or organization and the state tax identification number;

h. a description of each vehicle, truck, trailer, and/or processing unit which will be used by the applicant for the processing of waste tires including the make, model, year, license number, and name of registered owner if different from that of the processor;

i. evidence of general liability insurance in the amount of $1 million provided by an insurer who is admitted, authorized, or eligible to conduct insurance business in Louisiana;

j. a signed legal certification that all information provided in the application is true and correct with the knowledge of the possibility of punishment under the law for false information;

k. the name of the authorized agent of process, if applicable; and

l. the signature of the applicant and the date.

6. For mobile waste tire processing, the processor shall operate only at an authorized collection center, a permitted processing facility, or other site authorized by the administrative authority; such sites shall meet all applicable requirements of this Chapter.

7. Mobile processors are responsible for notifying the Office of Environmental Services in writing within 10 days when any information on the notification changes or if they cease processing waste tires with a mobile unit.

F. Governmental agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in LAC 33:VII.10517.C and request authorization from the Office of Management and Finance before initiating any processing.

G. Processors shall maintain a complete set of records pertaining to manifested tires or shredded waste tire material coming in or leaving their place of business. This shall include, but is not limited to, manifests, monthly reimbursement reports, records of all payments from/to end markets, inventory records, logs, any documents related to out-of-state tire activity, and financial records. These records shall be maintained for a period of no less than three years and shall be open for inspection by the administrative authority at all reasonable hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 28:1953 (September 2002), LR 29:2780 (December 2003), amended by the Office of the Secretary,

Legal Affairs Division, LR 31:2503 (October 2005), LR 33:2159 (October 2007).

### §10527. Standards and Responsibilities for Waste Tire Collectors and Collection Centers

A. Receipt of Tires

1. All collection center operators shall satisfy the manifest requirements of LAC 33:VII.10533. All collection center operators shall be responsible for counting the tires in the shipment. The collection center shall report monthly to the administrative authority, due no later than the fifteenth of the following month, the total number of tires received at the facility. These records shall be maintained by the collection center for a minimum of three years and are subject to audit by the administrative authority.

2. Each collection center shall accept no more than five unmanifested tires per day per customer. The collection center shall maintain a log for all unmanifested loads. The log for all unmanifested loads shall include, at the minimum, the following:

a. the name and address of the customer;

b. the license plate number of the vehicle delivering the tires;

c. the phone number of the customer;

d. the number of tires received;

e. the date;

f. the time; and

g. the signature of the customer delivering the tires.

B. All collection center operators shall meet the standards in LAC 33:VII.10525.D.1-10 and 12-14.

C. The storage limit for a collection center shall be 3,000 whole waste tires or 60 times the daily permitted processing capacity, whichever is greater.

D. Use of mobile processing units are allowed at collection centers only when processed waste tire material is immediately deposited in a trailer or other suitable container for immediate removal from the site.

E. No processed waste tire material shall be deposited on the ground at a collection center at any time.

F. All collection centers shall provide a method to control and/or treat process water if applicable.

G. The closure plan for all collection centers must ensure clean closure and must include the following:

1. the method to be used and steps necessary for closing the center;

2. the estimated cost of closure of the center, based on the cost of hiring a third party to close the center at the point in the center's operating life when the extent and manner of its operation would make closure the most expensive;

3. an estimate of the maximum inventory of whole waste tires ever on-site over the active life of the center;

4. a schedule for completing all activities necessary for closure; and

5. the sequence of final closure as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 29:2780 (December 2003).

### §10529. Standards and Responsibilities of Property Owners

A. Owners of property on which unauthorized waste tire piles are located shall remediate the site or reimburse the department for the cost of remediation, except as provided by R.S. 30:2156.

B. Owners of property on which unauthorized waste tire piles are located shall provide disease vector control measures adequate to protect the safety and health of the public, and shall keep the site free of excess grass, underbrush, and other harborage.

C. Owners of property on which unauthorized waste tire piles are located shall limit access to the piles to prevent further disposal of tires or other waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000).

### §10531. Standards and Responsibilities of Qualified Recyclers

A. Within 30 days of promulgation of these rules and regulations, recyclers shall notify the Office of Environmental Services of their existence and obtain an identification number. Notification shall be on a form provided by the Office of Environmental Services including, but not limited to:

1. name of the business owner;

2. name of the business;

3. mailing address, including city, state, zip code, and parish;

4. street address, including city, state, zip code, and parish;

5. business telephone number;

6. federal identification number and state tax identification number;

7. site master plan, including, when applicable, property lines, buildings, facilities, excavations, drainage, roads, and other elements of the process system employed;

8. name, address, and phone number of a contact person in case of an emergency, if different from the owner; and

9. signature and date.

B. All facilities recycling waste tires and/or waste tire material in Louisiana shall meet the requirements of LAC 33:VII.10525.D.

C. The storage limit for waste tire material shall be no more than 180 times the daily recycling capacity of the recycling facility. The facility must maintain records to document its compliance with this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:2159 (October 2007).

## §10533. Manifest System

A. All shipments of more than 20 waste tires shall be accompanied by a waste tire manifest provided by the department and executed in accordance with this Section. Tires transported in Louisiana that are not eligible tires, as defined in LAC 33:VII.10505, shall be clearly labeled ineligible on the manifest.

B. The manifest document flow is as follows:

1. the generator initiates the manifest (original and at least five copies), completing all of Section 1 and designating the destination facility in Section 3. After the transporter signs the manifest, the generator retains one copy for his files, and the original and all other copies accompany the waste tire shipment. Upon receipt of the waste tires, the transporter completes the Section 2, Transporter 1 information. If applicable, upon surrender of the shipment to a second transporter, the second transporter completes the Section 2, Transporter 2 information. After Transporter 2 signs the manifest, Transporter 1 retains his copy of the manifest;

2. the transporter secures signature of the designated destination facility operator upon delivery of waste tires and/or waste tire material to the designated destination facility. The transporter retains one copy for his files and gives the original and remaining copies to the designated destination facility operator;

3. the designated processing facility operator completes Section 3 of the manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the Office of Management and Finance with the monthly processor report. The designated processing facility shall send all remaining copies to the generator no later than seven days after delivery;

4. a generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated destination facility within 30 days of the date the waste tires and/or waste tire material was accepted by the initial transporter must contact the transporter and/or the owner or the operator of the designated destination facility to determine the status of the shipment; and

5. a generator must submit to the Office of Management and Finance written notification, if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

a. a legible copy of the manifest for which the generator does not have confirmation of delivery; and

b. a cover letter signed by the generator explaining the efforts taken to locate the shipment and the results of those efforts.

C. Upon discovering a discrepancy in the number or type of tires in the load, the designated destination facility must attempt to reconcile the discrepancy with the generator(s) or transporter(s). The destination facility operator must submit to the Office of Management and Finance, within five working days, a letter describing the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved a corrected copy is to be sent to the Office of Management and Finance.

D. Completed manifests shall be maintained by all parties for a minimum of three years and shall be made available for audit and/or inspection at the place of business during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:831 (June 2001), LR 27:2228 (December 2001), LR 29:2780 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:91 (January 2007), LR 33:2160 (October 2007).

## §10535. Fees and Fund Disbursement

A. Permit and Application Fees. Each applicant shall submit to the Office of Environmental Services a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application or authorization application form.

1. Transporter authorization application fee—$100
2. Collection center application fee—$800
3. Mobile processor annual application fee—$600
4. Standard permit application fee—$1,250
5. Permit modification fee—$100

6. Transporter maintenance and monitoring fee—$25/vehicle per fiscal year. This fee is to be paid on each truck listed on the transporter application form, or if the vehicle used to transport tires is a tractor and trailer rig, the vehicle fee must be paid for each tractor.

7. Transporter modification fee—$25/vehicle transfer. This fee is charged each time a vehicle is added or substituted on a transporter authorization certificate.

8. Recycler authorization application fee—$250.

B. Waste Tire Fee upon Promulgation of These Regulations. A waste tire fee is hereby imposed on each tire sold in Louisiana, to be collected from the purchaser by the tire dealer or motor vehicle dealer at the time of retail sale. The fee shall be $2 for each passenger/light truck tire, $5 for each medium truck tire, and $10 for each off-road tire. No fee shall be collected on tires weighing more than 500 pounds or solid tires.

C. The disposition of the fee shall be as follows.

1. The entire waste tire fee shall be forwarded to the Office of Management and Finance by the tire dealer and shall be deposited in the Waste Tire Management Fund.

2. The waste tire fee shall be designated as follows:

a. a minimum of $1.50 per 20 pound equivalent will be utilized to pay waste tire processors that are working under agreement with the administrative authority for the processing of currently generated waste tires marketed in accordance with Paragraph D.4 of this Section;

b. a maximum of 10 percent of the waste tire fees collected may be utilized for program administration;

c. 5 percent of the waste tire fees collected may be used for research and market development; and

d. 10 percent of the waste tire fees collected may be used for unauthorized tire pile cleanup.

D. Payments for Processing and Marketing Waste Tires and Waste Tire Material. Payments made by the state of Louisiana are meant to temporarily supplement the business activities of processors and are not meant to cover all business expenses and costs associated with processing and marketing. Payments shall only be paid to standard permitted processors under written agreement with the department in accordance with LAC 33:VII.10515.

1. Payments shall be paid for the processing and marketing of waste tires generated after January 1, 1995, as outlined in LAC 33:VII.10515.

2. No payments shall be made for waste tires generated outside of the state of Louisiana.

3. No payments shall be made for marketing used tires or for tires destined to be retreaded.

4. The payment for marketing or recycling of shredded waste tire material shall be a minimum of $1.50 per 20 pounds of waste tire material that is recycled by a qualified recycler. The processor shall demonstrate that the waste tire material has been recycled. The determination that waste tire material is being marketed to a qualified recycler shall be made by the administrative authority; this determination may be reviewed at any time.

5. The payment for marketing waste tire material produced by means other than shredding shall be determined on a case-by-case basis, but shall be a minimum of $1.50 per 20 pounds of waste tire material.

6. The marketing payments shall be made to the processor for whole waste tires or baled waste tires that are marketed and shipped to a qualified recycler by the processor.

7. Payments shall be made to the processor on a monthly basis, after properly completed monthly reports are submitted by the processor to the Office of Management and Finance. Reporting forms will be provided by the Office of Management and Finance.

8. The amount of payments made to each processor is based on the availability of monies in the Waste Tire Management Fund.

9. All, or a portion, of a processor's payments may be retained by the administrative authority if the administrative authority has evidence that the processor is not fulfilling the terms of his agreement and/or his standard permit.

10. Waste tire material that was produced prior to January 1, 1998, and for which processing payments were made are only eligible for the additional $0.15 incentive for marketing the waste tire material when the material is marketed after December 31, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007).

## §10536. Remediation of Unauthorized Tire Piles

A. Upon promulgation of these regulations, the administrative authority may issue agreements for remediation of unauthorized waste tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for unauthorized waste tire pile remediation. Any such agreements shall designate specific eligible sites and the department shall monitor the remediation activities, which shall be made in accordance with the standards and responsibilities outlined in the Solid Waste Regulations, LAC 33:VII. Any such agreements shall stipulate a maximum amount of total allowable costs that shall be paid from the Waste Tire Management Fund. These monies shall not be applied to indirect costs and other unallowable costs, which include but are not limited to,

administrative costs, consulting fees, legal fees, or premiums for performance bonds. Furthermore, they shall not be applied to reclamation efforts or remediation costs associated with other types of contaminants, which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, processing, recycling, and disposal costs of the waste tires.

B. In order to apply for and receive funding for unauthorized waste tire site remediation, local governments must provide the Office of Management and Finance with unauthorized waste tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information shall be submitted using forms available from the Office of Management and Finance.

C. Unauthorized waste tire piles shall be chosen for remediation based on their placement on the waste tire priority remediation list. Point values shall be assigned in accordance with the Waste Tire Management Fund Prioritization System located in LAC 33:VII.11103.Appendix B. These ranking criteria were developed in consideration of threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

D. State agencies, parish, or local governments may consolidate several smaller waste tire piles provided they obtain prior approval from the Office of Management and Finance. Consolidating the piles for the purpose of remediation may increase the priority ranking of the site in question.

E. Waste tires may not be removed from unauthorized waste tire piles without prior approval of the Office of Management and Finance.

F. The administrative authority will seek reimbursement from all responsible parties for any waste tire cleanup costs incurred by the state by any method allowed by law, provided same is practicable and cost effective.

G. The department may enter into agreements with processors holding either a standard waste tire processing permit or a mobile processor authorization certificate for the remediation of promiscuous/unauthorized waste tire sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:832 (June 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007).

## §10537. Enforcement

A. Failure to Comply. Failure of any person to comply with any of the provisions of these regulations, or of the terms and conditions of any permit granted or order issued pursuant to law and hereunder, constitutes a violation of the act.

B. Investigations and Audits: Purposes, Notice. Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the identity of the persons or parties involved. Upon written request, the results of an investigation shall be given to any complainant who provided the information prompting the investigation and, if advisable, to any person under investigation, if the identity of such person is known. In any case where a person selling tires has failed to report and remit the waste tire fee to the administrative authority, and the person's records are inadequate to determine the proper amount of fee due, or in any case where a grossly incorrect report or a report that is false or fraudulent has been filed, the administrative authority shall have the right to estimate and assess the amount of the fee due, along with any interest accrued and penalties. The burden to demonstrate to the contrary shall rest upon the audited entity.

C. Development of Facts, Reports. The administrative authority may conduct inquiries and develop facts through staff investigatory procedures or formal investigations and may conduct inspections and examinations of facilities and records. The administrative authority may hold public hearings and/or issue subpoenas pursuant to R.S. 30:2025.I requiring attendance of witnesses and production of documents or take such other action as may be necessary and authorized by the act or rules promulgated by the administrative authority. At the conclusion of the investigation, all facts and information that have been developed concerning any cited violation shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative authority for use in possible enforcement proceedings.

D. Enforcement Action. When the administrative authority determines that a violation of the act or these regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he or she shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules or statutes.

E. Fraudulent Takings

1. No person shall, with the intent to defraud, prepare, submit, tender, sign, make an entry upon, or certify any invoice, report, manifest, request for payment, claim, or other document in connection with the origin, transportation, storage, transfer, assignment, sale, or disposal of *waste tires* as defined by LAC 33:VII.10505.

2. Penalties for a violation of Paragraph E.1 of this Section shall be based on the value of the fraudulent taking. When the fraudulent taking results from a number of distinct acts by the offender, the aggregate amount of the payments, subsidies, credits, other disbursements, or things of value obtained shall determine the grade of the offense. Penalties shall be as follows.

a. If the fraudulent taking amounts to a value of $500 or more, the offender shall be imprisoned, with or without hard labor, for not more than 10 years, or may be fined not more than $3,000, or both.

b. When the fraudulent taking amounts to a value of $300 or more, but less than $500, the offender shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than $2,000, or both.

c. When the fraudulent taking amounts to less than $300, the offender shall be imprisoned for not more than six months, or may be fined not more than $500, or both. However, if such a conviction is the offender's third or subsequent conviction for violation of this Subsection, the offender shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than $2,000, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 28:1954 (September 2002), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005).

## §10539. Grants and Loans Applicability

A. The department may award a grant or loan to a person for any use that serves the purpose of:

1. encouraging market research and the development of products from waste tires that are marketable and provide a beneficial use; and/or

2. promoting those waste tire products that have beneficial use; and

3. assisting in solving the state's waste tire problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005).

## §10541. Application for a Grant or Loan

A. A person may apply for a grant or loan from the Waste Tire Management Fund by making application to the Department of Environmental Quality, Office of Management and Finance. The grant or loan application must be submitted on a form obtained from the department, which shall be available on the department's website. Along with this form, the request for a grant or loan must include information on the following non-exclusive items:

1. a detailed description of the project for which the grant or loan is requested and how the project meets the requirements of LAC 33:VII.10539;

2. the amount of the grant or loan request;

3. the projected time frame for completion of the project for which the grant or loan is requested;

4. an analysis of how the grant or loan monies will be used to encourage market research and the development of products from waste tires that are marketable and that provide a beneficial use, and/or provide for the promotion of those waste tire products that have beneficial use;

5. a detailed explanation of how the grantee will account for the use of the grant or loan funds;

6. procedures for reporting to the department on an annual basis the status of the project. The department may require additional reporting;

7. how the recipient will provide for any permits that may be necessary in order for the project to be completed, and the status of the applicant's efforts to obtain the necessary permits; and

8. any other information deemed necessary by the department.

B. Upon receipt of the grant application or loan application, the department shall review the application, may request additional information from the applicant, may deny the application, or may grant the application.

1. The denial of a grant application or loan application is a final decision of the administrative authority.

2. The granting of the application does not award funds, but allows for the applicant and the department to enter into a grant or loan agreement. The grant or loan agreement constitutes the conditions, goals, and responsibilities of the recipient and the department. The grant agreement or loan agreement, as a condition of the agreement, may require offsets for amounts due from any subsidy payments made in accordance with LAC 33:VII.10535.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005).

## §10543. Violations

A. Failure to Comply. The grantee shall comply with all provisions of the grant agreement or loan agreement. In the event of a violation, the department may take any enforcement action authorized by the Act, including but not limited to:

1. issuance of a compliance order;

2. issuance of a notice of potential penalty and/or a penalty;

3. filing suit for recovery of the grant or loan amounts; or

4. the placing of a lien on any real property of the grantee for the amount of the grant or loan funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3158 (December 2005).

# Chapter 111. Appendices

## §11101. Appendix A

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**
**FINANCIAL ASSURANCE DOCUMENTS FOR**
**WASTE TIRE FACILITIES**
**(AUGUST 4, 1994)**

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

**SAMPLE DOCUMENT 1:**

**WASTE TIRE FACILITY**

**FINANCIAL GUARANTEE BOND**

Date bond was executed: [Date bond executed]

Effective date: [Effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name and business address]

[site identification number, site name, facility name, and current closure amount for each facility guaranteed by this bond]

Total penal sum of bond: $

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality Waste Tire Management Fund in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all or us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

NOW THEREFORE, if the Principal shall provide alternate financial assurance as specified in LAC 33:VII.10525.D.12-14 and obtain written approval from the Office of Management and Finance, Financial Services Division of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform closure in accordance with the closure plan and permit requirements as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Office of Management and Finance, Financial Services Division. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the Office of Management and Finance, Financial Services Division, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.11101.Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETIES

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[This information must be provided for each cosurety]

Bond Premium: $

**SAMPLE DOCUMENT 2:**

**WASTE TIRE FACILITY**

**PERFORMANCE BOND**

Date bond was executed: [date bond executed]

Effective date: [effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond:$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33:VII.10525.D.12-14 and obtain written approval of the Office of Management and Finance, Financial Services Division of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the *Louisiana Administrative Code*, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33:VII.10525.D.12-14 and obtain written approval of such assurance from the Office of Management and Finance, Financial Services Division during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Office of Management and Finance, Financial Services Division. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.11101.Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETY

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond Premium: $

**SAMPLE DOCUMENT 3:**

**WASTE TIRE FACILITY**

**IRREVOCABLE LETTER OF CREDIT**

Secretary

Louisiana Department of Environmental Quality

Post Office Box 4303

Baton Rouge, Louisiana 70821-4303

Attention: Office of Management and Finance,
Financial Services Division

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit Number [number] in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the closure fund for its [list site identification number, site name, and facility name] at [location], Louisiana for any sum or sums up to the aggregate amount of U.S. dollars $ [number] upon presentation of:

(1) A sight draft, bearing reference to the Letter of Credit Number [number] drawn by the administrative authority together with;

(2) A statement signed by the administrative authority, declaring that the operator has failed to perform closure in accordance with the closure plan and permit requirements and that the amount of the draft is payable into the Waste Tire Management Fund.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date, and on each successive expiration date thereof, unless, at least 120 days before the then current expiration date, we notify both the Office of Management and Finance, Financial Services Division and the [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft to the Department of Environmental Quality for deposit into the Waste Tire Management Fund in the name of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except as otherwise expressly agreed upon, this credit is subject to the uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce Publication Number 400, or any revision thereof effective on the date of issue of this credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.11101.Appendix A dated August 4, 1994, effective on the date shown immediately below.

[Signature(s) and Title(s) of Official(s) of Issuing Institutions]

[Date]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1214 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:832 (June 2001), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004).

## §11103. Appendix B

### Waste Tire Management Fund Prioritization System

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 145 points. The points shall be allocated according to the following criteria.

I. Approximate Number of Tires in the Pile. This figure shall be an estimate by the department.

| Number of Tires in Pile | Point Value |
|---|---|
| >1,000,000 | 50 |
| 250,001 - 1,000,000 | 40 |
| 100,001 - 250,000 | 30 |
| 50,001 - 100,000 | 20 |
| 50,000 or less | 10 |

II. Proximity to Nearest Schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

| Proximity to Nearest School | Point Value |
|---|---|
| School within 2 mile radius | 25 |
| School within 4 mile radius | 17 |
| School within 6 mile radius | 9 |

III. Proximity to Residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

| Proximity to 50+ Residences | Point Value |
|---|---|
| 50 or more within 2 mile radius | 25 |
| 50 or more within 4 mile radius | 17 |
| 50 or more within 6 mile radius | 9 |

IV. Proximity to Hospitals and/or Nursing Homes. If a hospital and/or nursing home is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 25.

| Proximity to Hospital and/or Nursing Home | Point Value |
|---|---|
| Hospital and/or nursing home within 2 mile radius | 25 |
| Hospital and/or nursing home within 4 mile radius | 17 |
| Hospital and/or nursing home within 6 mile radius | 9 |

V. Proximity to Major Highways. If a major highway is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 20.

| Proximity to Major Highway | Point Value |
|---|---|
| Major highway within 1/4 mile radius | 20 |
| Major highway within 1/2 mile radius | 10 |

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1214 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2786 (December 2000).