PERMIT NUMBER: LAJ650000

DEQ
LOUISIANA

OFFICE OF ENVIRONMENTAL SERVICES

Sewage Sludge and Biosolids Use or Disposal Permit

General Permit Number LAJ650000

Pursuant to the Louisiana Environmental Quality Act, as amended (La. R. S. 30:2001 et seq.), rules and regulations effective or promulgated under the authority of said Act, this Louisiana Sewage Sludge and Biosolids Use or Disposal General Permit is issued. This permit authorizes persons who meet the requirements of Part I and have been approved by the Office to prepare sewage sludge for subsequent disposal in a landfill permitted to accept sewage sludge in accordance with conditions and requirements set forth herein.

Only those persons who prepare sewage sludge for disposal in a landfill permitted to accept sewage sludge that obtain coverage in accordance with Part I of this permit are authorized under this general permit.

This permit shall become effective on July 1, 2015

This permit shall expire five (5) years from the effective date of the permit.

Issued on May 22, 2015

Tegan B. Treadaway

Tegan B. Treadaway
Assistant Secretary

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PART I

GENERAL CONDITIONS

SECTION A. APPLICABILITY

Persons who prepare sewage sludge for disposal in a landfill permitted to accept sewage sludge are eligible for coverage under this general permit.

The landfill where the sewage sludge is disposed must possess a valid, effective permit issued under LAC 33:VII or Subtitle C of the Solid Waste Disposal Act and be permitted to receive sewage sludge for disposal.

SECTION B. OBTAINING AUTHORIZATION

All persons who prepare sewage sludge for disposal in a landfill as described above are eligible for coverage under this general permit and will become permittees authorized for coverage under this general permit upon approval and written notification by this Office.

Notice of Intent (NOI) to be covered under this general permit shall be made using Form_7257. The Form_7257 may be obtained by calling (225) 219-3213 or from the LDEQ website at http://www.deq.louisiana.gov/portal/tabid/2296/Default.aspx.

Facilities that have previously submitted a Sewage Sludge and Biosolids Use or Disposal Permit Application to the Department and meet the eligibility requirements of this general permit may be issued coverage under this general permit. Existing facilities conducting activities that are eligible for coverage under this general permit, but which are not permitted by LDEQ, should submit a Notice of Intent (NOI) immediately. Proposed facilities desiring coverage under this general permit must submit an NOI at least sixty (60) days prior to conducting activities covered by this general permit.

Any facility covered under the prior version of this general permit will automatically receive coverage under this renewal. If a renewal NOI was submitted, the department will review the NOI and ensure that the facility meets the applicability requirements. Upon reauthorization of coverage, those NOIs will be withdrawn.

Any permittee covered by an individual sewage sludge permit may submit an NOI and request that the individual sewage sludge permit be terminated if the permitted source or activity is also eligible for coverage under this general permit.

The Department may deny coverage under this general permit and require submittal of an application for an individual sewage sludge permit based on a review of the NOI or other

information. This Office reserves the right to issue such facilities an individual sewage sludge permit with more appropriate conditions and/or limitations.

SECTION C. RESTRICTIONS AND PROHIBITIONS

This general permit does not apply to:

1. public, private, or commercial facilities that prepare sewage sludge into an Exceptional Quality Biosolids or a Class B Biosolids for beneficial use through land application for either a crop fertilizer or soil conditioner;

2. public, private, or commercial land appliers of a Class B Biosolids; or

3. incinerators of sewage sludge.

Sewage sludge can only be disposed in a permitted landfill approved to accept such material.

The use or disposal of sewage sludge that is hazardous, under 40 CFR Part 261 and/or LAC 33:Part V, is prohibited.

The use or disposal of sewage sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis) is prohibited.

SECTION D. DISPOSAL AUTHORIZATION

During the period beginning with written notification from this Office of coverage under this general permit and lasting through the expiration date of this general permit, a permittee covered under this general permit is authorized to dispose sewage sludge in a landfill permitted to accept sewage sludge in accordance with the conditions and/or limitations that follow.

PART II

SPECIFIC CONDITIONS

The permittee shall prepare the sewage sludge and dispose of the prepared sewage sludge in a landfill permitted to accept sewage sludge in accordance with the provisions set forth in this general permit and all other applicable State regulations pertaining to the use or disposal of sewage sludge to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sewage sludge.

Failure to prepare the sewage sludge and properly dispose of the prepared sewage sludge in a landfill, permitted to accept sewage sludge, in accordance with the Act, the Louisiana Administrative Code, the applicable parts of Title 33, Part IX, or this Sewage Sludge and Biosolids Use or Disposal Permit shall constitute a violation which will subject the Permittee to possible enforcement action including but not limited to the imposition of civil penalties and to the possible suspension or revocation of this Sewage Sludge and Biosolids Use or Disposal Permit.

The preparation of sewage sludge and subsequent disposal in a landfill permitted to accept sewage sludge through any practice for which requirements have not been established in this general permit will constitute a violation of this general permit.

SECTION A. FACILITY PREPARATION REQUIREMENTS

1. The facility must include a receiving area, preparing areas, and storage area that are located on surfaces capable of preventing groundwater contamination (periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated).

2. All washdown, leachate, and/or other contaminated wastewater associated with the sewage sludge preparation process shall be collected and transported offsite for proper treatment and/or disposal or piped to the headworks of an onsite sanitary treatment unit.

3. All sewage sludge preparation areas shall be protected from any stormwater run-on and runoff. If necessary, any stormwater and leachate generated at the preparation area shall be collected and transported offsite for proper treatment and/or disposal or piped to the headworks of the onsite sanitary treatment unit and properly treated prior to any discharge onto the land surface.

4. Provisions shall be made for the daily cleanup of the facility, including equipment and sewage sludge handling areas.

5. Sufficient equipment shall be provided and maintained at the facility to meet operational needs.

6. The production of odor shall be minimized.

7. Any processed air produced at the facility and other sources of odor shall be contained and, if necessary, properly treated in accordance with an Air Quality Permit in order to remove odor before discharging to the atmosphere.

8. The permittee must take all steps to assure that any material prepared with sewage sludge is non-hazardous in accordance with 40 CFR Part 261 and/or LAC 33:Part V.

SECTION B. OPERATIONAL AND MAINTENANCE MANUAL

The following requirements apply to commercial preparers of sewage sludge, including publicly owned treatment works (POTWs) that accept hauled sewage sludge from outside sources and/or have its sewage sludge treatment facility located outside the boundary or perimeter of the POTW:

1. The Facility Operations and Maintenance Manual shall be updated as needed and kept on-site and readily available to employees and, if requested, to the Administrative Authority or his/her duly authorized representative.

2. The Facility Operations and Maintenance Manual must describe, in specific detail, how the sewage sludge will be managed during all phases of the preparation and subsequent disposal in a landfill permitted to accept sewage sludge. At a minimum, the manual shall address the following:

   - Site and project description;
   - Regulatory interfaces;
   - Process (preparation) management plan;
   - Control of stormwater run-on and runoff;
   - Collection and treatment of all washdown water and sewage sludge leachate;
   - Prepared sewage sludge storage procedures;
   - Odor management plan;
   - Worker health and safety management plan;
   - Housekeeping and nuisance management plan;
   - Emergency preparedness plan;
   - Security, community relations, and public access plan;
   - Regulated chemicals (list and location of regulated chemicals kept on-site);
   - Monitoring, sampling, recordkeeping, and reporting procedures;
   - Product distribution records;
   - Description of how the prepared sewage sludge will be collected and transported to the landfill permitted to accept sewage sludge;
   - Operator certification;

- Administration of the operations and maintenance manual; and
- Manifest system.

SECTION C. MONITORING, SAMPLING & ANALYSIS

1. The permittee shall sample and analyze representative samples of the prepared sewage sludge for the parameters listed in Table 1 below:

Table 1 **Prepared Sewage Sludge (Hazardous Characteristics Testing)**	
Parameter	**Sampling Frequency**
Toxicity Characteristic Leaching Procedure (TCLP) Metals (Arsenic (As), Barium (Ba), Cadmium (Cd), Chromium (Cr), Lead (Pb), Selenium (Se), Silver (Ag)) Mercury (Hg) Volatile Organics Semi-Volatile Organics Pesticides Herbicides	Once/Year
PCB (Total)	Once/Year

2. If the Paint Filter Liquids Test is required by the receiving landfill, the sewage sludge shall be tested at a frequency required by the landfill, but no less than once/year. The Paint Filter Liquids Test shall be performed in accordance with the method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW–846).

3. Any other sampling and analysis required by the owner/operator of the landfill to demonstrate compliance with the landfill requirements.

4. All samples and measurements taken for the purpose of laboratory analysis(es) shall be representative of the monitored activity and shall be in accordance with the methods referenced in LAC 33:IX.7301.I.

5. Sampling and analysis of the sewage sludge is not required during a calendar year in which no sewage sludge is disposed in the landfill.

SECTION D. RECORDKEEPING

1. Sewage Sludge Tracking System

The sewage sludge tracking system requirement of this permit applies only to those facilities that do not possess an LPDES permit. The permittee shall develop and implement a sewage sludge hauler manifest or tracking system prior to acceptance of sewage sludge. The manifest system shall be the primary mechanism by which the preparation facility will identify the quantity and quality of wastes being discharged into the treatment system. The manifest system also provides a means to ensure only authorized wastes are being introduced into the treatment system. The manifest system shall require the waste hauler to complete an entry for each load picked up. The manifest form shall include at minimum the following information:

a. Name, address and phone number of the hauler.
b. Hauler vehicle license number.
c. LDEQ registration number.
d. Driver name.
e. Generator Information (where the sludge was picked up from) including:
   i. Address of the generator.
   ii. Name of generator (business name) if not an individual residence.
   iii. Date the waste was pumped.
   iv. Gallons pumped by the hauler.
f. A statement to be signed by the hauler certifying:
   i. The manifest was prepared by him or under his direct supervision;
   ii. The information contained in the manifest is to the best of his knowledge complete and accurate;
   iii. The vehicle load contains only those wastes authorized by the treatment facility;
   iv. The vehicle load does not contain hazardous wastes as defined at 40 CFR Part 261; and,
   v. That the hauler is aware of penalties for submititting false information.
g. The certification shall be followed by the printed name, signature and date of signature of the hauler.
h. The preparation facility shall supply blank manifest forms to each hauler.
i. A copy of the completed, signed and dated manifest form shall be supplied to the hauler upon discharge of the wastes into the treatment system. Duplicate forms are permissible.
j. Manifests shall be maintained by the preparation facility for a period of five (5) years and shall be made available upon request by duly authorized LDEQ representatives.

The preparation facility shall maintain a list of all vehicles authorized to discharge into the treatment system. This shall include the make and model of the vehicle, the state of registration, the state vehicle license number and the tank volume, in gallons, for each vehicle authorized by the treatment works. This list shall be maintained by the preparation facility and shall be made available upon request by duly authorized LDEQ representatives. (Any truck transporting hauled sewage sludge must be properly licensed by LDEQ to haul sewage sludge. The receipt of hauled sewage sludge from an unauthorized/unlicensed hauler shall constitute a violation of this permit.)

2. Monitoring Recordkeeping
   a. The laboratory results for the parameters in Table 1 of this permit, for the Paint Filter Liquids Test (if required by the landfill), and for any other sampling and analysis required by the owner/operator of the landfill shall be retained for a period of five (5) years.

   b. The permittee shall create and maintain records of monitoring and sampling and analysis information that shall include:
      i. the date, exact place, and time of sampling or measurements;
      ii. the individual(s) who performed the sampling or measurements;
      iii. the date(s) analyses were performed;
      iv. the individual(s) who performed the analysis;
      v. the analytical techniques or methods used; and,
      vi. the results of such analysis.

SECTION E. REPORTING

The permittee shall submit reports to the administrative authority as indicated below:

1. The amount (tons/yr. on a dry wt. basis) of sewage sludge prepared at the facility shall be reported once per year on the due date indicated in Table 2 below.

2. The annual amount (tons/yr. on a dry wt. basis) of prepared sewage sludge that is disposed in the landfill permitted to accept sewage sludge shall be reported once per year on the due date indicated in Table 2 below.

3. If there is a discrepancy in amount of sewage sludge prepared at the facility and amount of sewage sludge disposed in the landfill, please explain.

4. The parameters listed in Table 1 of this permit, the results of the Paint Filter Liquids Test required in D.2 above (if required by the receiving landfill permitted to accept sewage sludge), and any additional tests required by the receiving landfill shall be reported once per year on the due date in Table 2 below.

Table 2 Reporting - Disposal in a Landfill	
Monitoring Period (Once/Year)	**Report Due Date**
January – December	February 19

5. The following certification statements shall be a part of each annual report:

   "I certify, under penalty of law, that the information that will be used to determine compliance with the preparation of sewage sludge and ultimate disposal in a landfill permitted to accept sewage sludge was prepared under my direction and supervision in accordance with the system as described in the permit application, designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with 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 a fine and imprisonment for knowing violations."

6. The permittee shall report results of the monitoring of the sewage sludge on a form specified by the Administrative Authority. The form may be obtained from the LDEQ website at http://www.deq.louisiana.gov/portal/tabid/2296/Default.aspx. If no sewage sludge was disposed during the reporting year, documentation of such shall be reported on the form.

7. If the permittee monitors any pollutant, in accordance with applicable test procedures specified in this permit, more frequently than required by the permit, then the results of this monitoring shall be reported to the Administrative Authority on the forms specified by the Administrative Authority. If additional parameters using EPA approved testing methods are reported, these results must be submitted on a separate form.

8. An updated copy of the authorized vehicle list and copies of the manifests (or a report summarizing the required manifest information) shall be submitted annually to the Department and postmarked no later than February 28th of each calendar year. If no sewage sludge was received during the reporting year, documentation of such shall be reported to the Department. This information will be utilized to provide QA/QC in the annual licensing of septage haulers.

9. The reports and information required by this Section shall be submitted to:

Louisiana Department of Environmental Quality
Office of Environmental Services
Water Permits Division
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

SECTION F. STORAGE OF SEWAGE SLUDGE

1. The storage of sewage sludge shall not exceed a period of six (6) consecutive months unless a request for extension is submitted to the Administrative Authority that includes, but is not limited to, the following information:
   - the name and address of the person who prepared the sewage sludge;
   - the name and address of the person who either owns or leases the land where the prepared sewage sludge is to be stored, if different from the person who prepared the sewage sludge;
   - the location, by either street address or latitude and longitude, of where the prepared sewage sludge is to be stored;
   - an explanation of why the prepared sewage sludge needs to remain stored for greater than six months;
   - an explanation of why human health and the environment will not be affected by the extended storage of the prepared sewage sludge;
   - the approximate date and length of time the prepared sewage sludge will be stored; and,
   - the final use or disposal method of the prepared sewage sludge after the storage period has expired.

2. The request for an extension for storage for greater than six months must be submitted in writing to the Office of Environmental Services at least 60 days prior to the expiration of the first six-month storage period.

3. The storage period shall not extend for a period greater than six months until the administrative authority has made and issued a determination to grant or deny the request for the storage of sewage sludge beyond the original six month storage period.

SECTION G. CERTIFICATION REQUIREMENTS

The following certification requirements apply to wastewater treatment operators:

1. The permittee, or at least one of the employees under the supervision of the permittee, must maintain all certification requirements of the Louisiana Department of Health and Hospitals (LDHH).

2. To maintain certification, a minimum of 16 contact hours of continuous education are required for each certificate held during the previous two-year certification period. Classes, seminars, conferences, or conventions used for units shall be approved by the Administrative Authority.

SECTION H. COVERAGE UNDER SUBSEQUENT PERMITS

Should this permit expire before it is reissued, this Office will administratively extend the permit for permittees that were covered prior to the expiration date of the permit, until such time that a new general permit is issued.

Upon reissuance or replacement of this permit, the permittee must comply with the requirements for obtaining coverage under the new permit to maintain authorization to dispose sewage sludge in a landfill permitted to accept sewage sludge.

SECTION I. LPDES PERMIT REQUIREMENTS

Facilities that propose to discharge treated sanitary wastewater and/or other types of wastewaters to waters of the state are required to apply for and obtain a Louisiana Pollutant Discharge Elimination System (LPDES) permit from the DEQ Water Permits Division prior to discharge.

SECTION J. SITING REQUIREMENTS FOR PREPARERS OF SEWAGE SLUDGE

1. Location Characteristics
   a. Facilities shall not be located less than 200 feet from a property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of the adjoining landowners and occupants. A copy of the notarized affidavit waiving the 200-foot buffer zone shall be entered in the mortgage and conveyance records of the parish for the adjoining landowner's property.
   b. Facilities shall not be located less than 300 feet from a private potable water supply or private water supply elevated storage tank or ground storage tank unless special permission is granted by the private potable water supply owner.
   c. Facilities shall not be located less than 300 feet from a public potable water supply or public water supply elevated storage tank or ground storage tank unless special permission is granted by the Louisiana Department of Health and Hospitals.
   d. Facilities shall not be located less than 100 feet from wetlands, surface waters (streams, ponds, lakes), or areas historically subject to overflow from floods.
   e. Facilities shall only be located in a hydrologic section where the historic high water table is at a minimum of a 3-foot depth below the surface, or the water table at the facility shall be controlled to a minimum of a 3-foot depth below this zone.

f. Untreated sewage sludge, other materials, feedstock, or supplements to be utilized at a facility shall not be located less than 25 feet from a subsurface drainage pipe or drainage ditch that discharges directly to waters of the state.

g. New or first-time-permitted facilities that are not located within the boundaries of a legally zoned and established industrial park:
   i. shall not be located less than 1,000 feet from an established institution, as defined in LAC 33:IX.7301.B, unless special permission is granted by the owner of the institution. The permission must be in the form of an affidavit executed by the owner waiving the 1,000-foot buffer zone. However, in no case shall the facility be located less than 200 feet from such an institution; and
   ii. shall not be located less than 500 feet from an established home residence unless special permission has been granted by the owner and/or lessee of the established home residence in the form of an affidavit executed by the owner and/or lessee waiving the 500-foot buffer zone. However, in no case shall the facility be located less than 200 feet from an established home residence.

h. Facilities that blend, mix, or compost sewage sludge that include food or other municipal solid waste as feedstock or supplements shall not be located closer than:
   i. 5,000 feet from any airport property boundary (including the air operations area) if the airport does not sell Jet-A fuel and serves only piston-powered aircraft; or
   ii. 10,000 feet from any airport property boundary (including the air operations area) if the airport sells Jet-A fuel and serves turbine-powered aircraft, or sells Jet-A fuel and is designed to serve turbine-powered and/or piston-powered aircraft.

i. Storage and processing of sewage sludge or biosolids is prohibited within any of the buffer zones indicated in a-h of this Section.

j. 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.

k. Facilities located in, or within 1,000 feet of, an aquifer recharge zone shall be designed to protect the area from adverse impacts of operations at the facility.

l. 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; and the surface roadways shall be adequate to withstand the weight of transportation vehicles.

2. Facility Characteristics
   a. Perimeter Barriers, Security, and Signs
      i. All facilities shall have a perimeter barrier around the facility that prevents unauthorized ingress or egress, except by willful entry.
      ii. During operating hours, each facility entry point shall be continuously monitored, manned, or locked.
      iii. During non-operating hours, each facility entry point shall be locked.
      iv. All facilities that receive sewage sludge, other materials, feedstock, or supplements from off-site sources shall post readable signs that list the types of sewage sludge, other materials, feedstock, or supplements that can be received at the facility.
   b. Fire Protection and Medical Care. All facilities shall have access to required fire protection and medical care with access gates that are wide enough to allow easy access for emergency vehicles, or such services shall be provided internally.

3. Facility Surface Hydrology
   a. Surface-runoff-diversion levees, canals, or devices shall be installed to prevent drainage from the facility to adjoining areas during a 24-hour/25-year storm event. When rainfall records are not available, the design standard shall be 12 inches of rainfall below 31 degrees north latitude and 9 inches of rainfall above 31 degrees north latitude. If the 24-hour/25-year storm event level is lower, the design standard shall be required.
   b. Storm water run-on shall be prevented from entering the receiving, processing, curing, and storage areas by the use of berms or other physical barriers.
   c. The topography of the facility shall provide for drainage to prevent standing water and shall allow for drainage away from the facility.
   d. All storm water and wastewater from a facility must conform to applicable requirements of LAC 33:IX.Chapters 23-67.

4. Facility Geology
   a. Except as provided in LAC 33:IX.7305.B.4.c, facilities shall have natural stable soils of low permeability for the area occupied by the facility, including vehicle parking and turnaround areas, that should provide a barrier to prevent any penetration of surface spills into groundwater aquifers underlying the area or to a sand or other water-bearing strata that would provide conduits to such an aquifer.
   b. The natural soil surface must be capable of supporting heavy equipment operation during and after prolonged periods of rain.
   c. A design for surfacing natural soils that do not meet the requirements in LAC 33:IX.7305.B.4.a and b shall be prepared under the supervision of a professional engineer, licensed in the state of Louisiana with expertise in geotechnical

engineering and geohydrology. Written certification by the engineer that the surface satisfies the requirements shall be provided.

5. Facility plans and specifications represented and described in the permit applications or permit modifications for all facilities must be prepared under the supervision of, and certified by, a professional engineer, licensed in the state of Louisiana.

SECTION K. OPERATIONAL REQUIREMENTS FOR COMMERCIAL PREPARERS OF SEWAGE SLUDGE

1. Facility Operations and Maintenance Manual
   a. A facility operations and maintenance manual shall be developed and forwarded with the permit application to the administrative authority.
   b. The facility operations and maintenance manual shall describe, in specific detail, how the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge (if applicable) will be managed during all phases of the preparation process and, if applicable, the land application process. At a minimum, the manual shall address the following:
      - preparation facility site and project description;
      - regulatory interfaces;
      - preparation process management plan;
      - odor management plan;
      - methods utilized for managing the biological conditions during the composting procedure (i.e., carbon/nitrogen ratio, moisture, O_2 levels, free air space), when composting is utilized as a preparation process;
      - worker health and safety management plan;
      - housekeeping and nuisance management plan;
      - emergency preparedness plan;
      - security, community relations, and public access plan;
      - regulated chemicals (list and location of regulated chemicals kept on-site);
      - monitoring, sampling, recordkeeping, and reporting procedures;
      - feedstock, supplements, and process management;
      - product distribution records;
      - pollutant reduction plan (for land application of biosolids);
      - pathogen treatment plan (for land application of biosolids);
      - vector attraction reduction plan (for land application of biosolids);
      - site application records (for land application of biosolids);
      - description of how the land application management practices are met (for land application of biosolids);
      - description of how the land application site and soil restrictions are met (for land application of biosolids);
      - operator certification; and

- administration of the operations and maintenance manual.

c. The facility operations and maintenance manual shall be keep on-site and readily available to employees and, if requested, to the administrative authority or his/her duly authorized representative.

2. Facility Operational Standards

a. The facility must include a receiving area, a mixing area, a curing area, a compost storage area for composting operations, drying and screening areas, and a truck wash area, which shall be located on surfaces capable of preventing groundwater contamination (periodic inspections of the surface shall be made to ensure that the underlying soils and the surrounding land surface are not being contaminated).

b. All containers shall provide containment of the sewage sludge and the other feedstock or supplements to be blended, composted, or mixed with the sewage sludge, and thereby control litter and other pollution of adjoining areas.

c. Provisions shall be made for the daily cleanup of the facility, including equipment and waste-handling areas.

d. Treatment facilities for washdown and contaminated water shall be provided, or the wastewater contained, collected, and transported off-site to an approved wastewater treatment facility.

e. Leachate produced in the composting process:

i. shall be collected and disposed off-site at a permitted facility; or

ii. shall be collected, treated, and discharged on-site in accordance with LAC 33:IX.Chapters 23-67; or

iii. may be reused in the composting process as a source of moisture.

f. Sufficient equipment shall be provided and maintained at all facilities to meet their operational needs.

g. Odor Management

i. The production of odor shall be minimized.

ii. Processed air and other sources of odor shall be contained and, if necessary, treated in order to remove odor before discharging to the atmosphere.

h. Receiving and Monitoring Sewage Sludge, Other Materials, Feedstock, or Supplements Used

i. Any facility used to prepare sewage sludge shall be equipped with a device or method to determine quantity (by wet-weight tonnage), sources (whether the sewage sludge, other materials, feedstock, or supplements to be mixed with the sewage were generated in-state or out-of-state), and types of other materials, feedstock, or supplements. The facility shall also be equipped with a device or method to control entry of sewage sludge, other materials, feedstock, or supplements coming on-site and prevent entry of unrecorded or unauthorized deliverables (i.e., hazardous, industrial, unauthorized, or unpermitted solid waste).

ii. Other feedstock and supplements that are blended, composted, or mixed with sewage sludge shall be treated for the effective removal of sharps including, but not limited to, sewing needles, straight pins, hypodermic needles, telephone wires, and metal bracelets.

iii. Any facility used to prepare sewage sludge shall be equipped with a central control and recordkeeping system for tabulating the required information.

i. Personnel. All facilities shall have the personnel necessary to achieve the operational requirements of the facility.

3. Additional Operational Requirements for Composters

a. The composting procedure shall begin within 24 hours of receipt of the material to be prepared as compost.

b. Adequate covers shall be provided for windrows during the curing stage to protect the compost from rainwater.

c. Covered areas shall be provided where feedstock is prepared.

d. Any compost made from sewage sludge that cannot be used according to these regulations shall be reprocessed or disposed of in an approved facility.

e. Composted sewage sludge shall be used, sold, or disposed of at a permitted disposal facility within 36 months of completion of the composting process.

f. The final composted product shall be stable and mature. In addition to meeting the applicable time and temperature for pathogen and vector attraction reduction requirements, proof of the stability and maturity of the final composted product shall be provided by utilizing the applicable methods in the source referenced in LAC 33:IX.7301.I.2.j.

4. Facility Closure Requirements

a. Notification of Intent to Close a Facility. All permit holders shall notify the administrative authority 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:

- the date of planned closure;
- changes, if any, requested in the approved closure plan; and
- the closure schedule and estimated cost.

b. Closure Requirements

i. An insect and rodent inspection is required before closure. Extermination measures, if required, must be provided.

ii. All remaining untreated and unprepared sewage sludge, other materials, feedstock, and supplements shall be dewatered, removed, and disposed of in a permitted facility within 10 days of ceasing operations.

iii. All biosolids shall be used or disposed of in accordance with the

provisions set forth in these regulations within 10 days of ceasing operations.

c. Additional Closure Requirements
Additional closure requirements for commercial preparers of sewage sludge who utilize composting as the process to prepare the sewage sludge and for all other commercial preparers of sewage sludge who prepare an amount of sewage sludge equal to or greater than 15,000 metric tons per year are as follows:

i. The permit holder shall verify that the soils within the facility boundary have not been contaminated in the operation of the facility.

ii. If contamination exists, in order to satisfy the closure requirements of this Section the permit holder must utilize the Risk Evaluation/Corrective Action Program (RECAP) standards in accordance with LAC 33:I.Chapter 13 to the fullest extent possible. Any residual contamination must meet the RECAP standards approved by the administrative authority, including any residual contamination in the underlying and surrounding soils and/or groundwater. Otherwise, the permit holder shall enter into a cooperative agreement with the administrative authority to perform corrective action (i.e., additional closure activities including site investigation, remedial investigation, a corrective action study, and/or remedial action).

d. Closure Inspection
After the closure requirements have been met, the permit holder shall file a request for a closure inspection with the Office of Environmental Services.

e. Release of Closure Funds
After the closure inspection and subsequent determination by the administrative authority that a facility has completed closure, the administrative authority shall release the closure fund to the permit holder.

SECTION L. FINANCIAL ASSURANCE REQUIREMENTS FOR COMMERCIAL PREPARERS OF SEWAGE SLUDGE

1. Financial assurance mechanisms and instruments shall be submitted as follows:

a. The permit holder must submit to the administrative authority for approval a financial assurance mechanism to cover the cost estimate for the closure requirements in LAC 33:IX.7305.C.3. The financial assurance mechanism shall be submitted with the application under separate cover and be approved by the administrative authority as part of the permit issuance process. The financial assurance mechanism must be approved by the administrative authority prior to the permit holder's operating the facility.

b. All instruments shall be submitted in the following manner.
   i. The instrument shall be addressed to the Office of Environmental Services.
   b) The original instrument shall be submitted.
   c) The instrument shall be accompanied with a cover letter identifying the facility, agency interest number, and any other identifying information deemed necessary by the administrative authority.

2. Commercial preparers of sewage sludge, hereinafter referred to as *affected persons*, have the following liability insurance responsibilities while their facilities are in operation.

   a. All affected persons shall maintain liability insurance, or its equivalent, for sudden and accidental occurrences in the amount of $1 million per occurrence and $1 million annual aggregate, per site, exclusive of legal defense costs, for claims arising from injury to persons or property, owing to the operation of the site. Commercial preparers of sewage sludge and commercial land appliers of biosolids are exempt from these requirements if the amount of sewage sludge prepared or the amount of biosolids applied to the land is less than 15,000 metric tons per year. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services. This financial assurance may be established by any one or a combination of the following mechanisms.
      i. Insurance. Evidence of liability insurance may consist of either a signed duplicate original of a liability endorsement in favor of the affected person, or a certificate of insurance. The wording of a liability endorsement shall be identical to the wording in LAC 33:IX.7395.Appendix A, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The wording of a certificate of insurance shall be identical to the wording in LAC 33:IX.7395.Appendix B, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. All liability endorsements and certificates of insurance must include:
         a) a statement of coverage relative to environmental risks;
         b) a statement of all exclusions to the policy; and
         c) a certification by the insurer that the insurance afforded with respect to such sudden accidental occurrences is subject to all of the terms and conditions of the policy, provided, however, that any inconsistent provisions of the policy of this Section are amended to conform with Subclauses:
            i) bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;
            ii) the insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of

reimbursement by the insured for any such payment made by the insurer.

iii) whenever requested by the administrative authority, the insurer agrees to furnish to the administrative authority a signed duplicate original of the policy and all endorsements;

iv) cancellation of the policy, whether by the insurer or the insured, will be effective only upon written notice and upon lapse of 60 days after a copy of such written notice is received by the Office of Environmental Services;

v) any other termination of the policy will be effective only upon written notice and upon lapse of 30 days after a copy of such written notice is received by the Office of Environmental Services; and

vi) the insurer is admitted, authorized, or eligible to conduct insurance business in the state of Louisiana.

ii. Letter of Credit. An affected person may satisfy the requirements by obtaining an irrevocable letter of credit that conforms to all of the following requirements and submitting the letter to the administrative authority.

a) 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.

b) An affected person who uses a letter of credit to satisfy the requirements 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 agreement shall be identical to the wording in LAC 33:IX.7395.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 formal certification of acknowledgement, as in the example in LAC 33:IX.7395.Appendix D.

c) The letter of credit must be accompanied by a letter from the affected person referring to the letter of credit by number, name of issuing institution, and date, and providing the following information:

i) the agency interest number;

ii) the site name, if applicable;

iii) the facility name;
iv) the facility permit number; and
v) the amount of funds assured for liability coverage of the facility by the letter of credit.

d) 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 affected person and the administrative authority 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 affected person and the Office of Environmental Services receive the notice, as evidenced by the return receipts.

e) The wording of the letter of credit shall be identical to the wording in LAC 33:IX.7395.Appendix C, except that the instructions in brackets are to be replaced with the relevant information (i.e., type of affected person), and the brackets deleted.

iii. Financial Test

a) To meet this test, the affected person or parent corporation (corporate guarantor) of the affected person must submit to the Office of Environmental Services the required documents of this Section. Use of the financial test may be disallowed on the basis of the accessibility of the assets of the affected person or parent corporation (corporate guarantor). If the affected person or Parent Corporation is using the financial test to demonstrate liability coverage and closure, only one letter from the chief financial officer is required.

b) The assets of the parent corporation of the affected person shall not be used to determine whether the affected person satisfies the financial test, unless the parent corporation has supplied a corporate guarantee.

iv. Corporate Guarantee

a) An affected person may meet the requirements of this Section for liability coverage by obtaining a written guarantee, hereafter referred to as a *corporate guarantee*. The guarantor must demonstrate to the administrative authority that the guarantor meets the requirements in this Subsection and must comply with the terms of the corporate guarantee. The terms of the corporate guarantee must be in an authentic act signed and sworn to by an authorized officer of the corporation before a notary public and must provide that:

i) the guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors;

ii) the guarantor is the parent corporation of the affected person to be covered by the guarantee, and the guarantee extends to certain facilities;

iii) if the affected person fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden and accidental occurrences (or both as the case may be), arising from the operation of facilities covered by the corporate guarantee, or fails to pay an amount agreed to in settlement of the claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage;

iv) 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, by certified mail, notice to the Office of Environmental Services and to the affected person, that he intends to provide alternative financial assurance in the name of the affected person, and that within 120 days after the end of said fiscal year the guarantor shall establish such financial assurance, unless the affected person has done so;

v) 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;

vi) 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 or she is disallowed from continuing as a guarantor of closure, he or she shall establish alternate financial assurance in the name of the affected person unless the affected person has done so;

vii) the guarantor agrees to remain bound under the guarantee notwithstanding any or all of the following: amendment or modification of the permit, or any other modification or alteration of an obligation of the affected person in accordance with these regulations;

viii) the guarantor agrees to remain bound under the guarantee

for as long as the affected person must comply with the applicable financial assurance requirements for the facilities covered by the guarantee, except that the guarantor may cancel this guarantee by sending notice by certified mail to the administrative authority and the affected person. Such a cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the affected person, as evidenced by the return receipts;

ix) the guarantor agrees that if the affected person fails to provide alternate financial assurance, and 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 affected person;

x) the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the affected person. The guarantor also expressly waives notice of amendments or modifications of the facility.

b) A corporate guarantee may be used to satisfy the requirements of this Section only if the attorney general(s) or insurance commissioner(s) of the state in which the guarantor is incorporated, and the state in which the facility covered by the guarantee is located, has submitted a written statement to the Office of Environmental Services that a corporate guarantee is a legally valid and enforceable obligation in that state.

b. The use of a particular financial assurance mechanism is subject to the approval of the administrative authority.

c. Affected persons must submit evidence of financial assurance in accordance with this Section at least 60 days before the date on which sewage sludge, other materials, feedstock, or supplements are first received for processing.

3. Financial Assurance for Closure for Commercial Preparers of Sewage Sludge

a. Commercial preparers of sewage sludge, hereinafter referred to as *affected persons*, shall maintain financial assurance in the amount of $25,000 per site for closure if the amount of sewage sludge prepared or the amount of biosolids applied to the land is less than 15,000 metric tons per year. Evidence of this coverage shall be updated annually and provided to the Office of Environmental Services. If these requirements cannot be met, an alternative financial assurance

mechanism shall be submitted for review and approval by the administrative authority. Such an alternative financial assurance mechanism shall not result in a value of financial assurance that is less than the amount provided as a written cost estimate for closure of the facility in the permit application.

b. All affected persons not covered in Paragraph C.1 of this Section shall establish and maintain financial assurance foreclosure in accordance with LAC 33:IX.7305.C.3, and shall submit to the Office of Environmental Services the estimated closure date and the estimated cost of closure in accordance with the following requirements.

i. The affected person must have a 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.

a) 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 re-estimation of the closure costs. The affected person must revise the cost estimate whenever a change in the closure plan increases or decreases the cost of the closure plan. The affected person must submit a written notice of any such adjustment to the Office of Environmental Services within 15 days following such adjustment.

b) For trust funds, the first payment must be at least equal to the current 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 cost estimate and dividing the result by the number of years remaining in the pay-in period. The initial pay-in period is based on the estimated life of the facility.

ii. Financial Assurance Instruments. The financial assurance instrument must be one or a combination of the following: a trust fund, a financial guarantee bond ensuring closure funding, a performance bond, a letter of credit, an insurance policy, or the financial test. The financial assurance mechanism is subject to the approval of the administrative authority and

must fulfill the following criteria.

a) 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 closure of the facility, and a signed copy must be furnished to the administrative authority with the mechanism.

b) An affected person may use a financial assurance mechanism specified in this Section for more than one facility, if all such facilities are located within the state of Louisiana and are specifically identified in the mechanism.

c) The amount covered by the financial assurance mechanisms must equal the total of the current closure cost estimate for each facility covered.

d) When all closure requirements have been satisfactorily completed, the administrative authority shall execute an approval to terminate the financial assurance mechanisms.

iii. Trust Funds. An affected person may satisfy the requirements 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.

a) 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.

b) Trusts must be accomplished in accordance with and subject to the laws of the state of Louisiana. The beneficiary of the trust shall be the administrative authority.

c) 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 affected person upon approval of the administrative authority.

d) The trust agreement must be accompanied by an affidavit certifying the authority of the individual signing the trust on behalf of the affected person.

e) The affected person 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 affected person must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made.

f) If the affected person establishes a trust fund after having used one or more of the alternate instruments specified in this Section, the 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 Section.

g) After the pay-in period is completed, whenever the current cost estimate changes, the affected person 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 affected person, 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 cost estimate, or obtain other financial assurance as specified in this Section to cover the difference.

h) After beginning final closure, an affected person or any other person authorized by the affected person to perform closure may request reimbursement for 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 expenditures are in accordance with the closure plan or otherwise justified, and, if so, he or she will 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 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 affected person is no longer required to maintain financial assurance.

i) The wording of the trust agreement shall be identical to the wording in LAC 33:IX.7395.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 (LAC 33:IX.7395.Appendix D).

iv. Surety Bonds. An affected person may satisfy the requirements by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

a) 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 be approved by the administrative authority.

b) The affected person who uses a surety bond to satisfy the requirements 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 identical to the wording in LAC 33:IX.7395.Appendix D, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The standby trust agreement shall be accompanied by a formal certification of acknowledgement (LAC 33:IX.7395.Appendix D).

c) The bond must guarantee that the affected person will:
   i) 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;
   ii) fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued; or
   iii) 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 affected person and the administrative authority of a notice of cancellation of the bond from the surety.

d) The terms of the bond must provide that the surety will become liable on the bond obligation when the affected person fails to perform as guaranteed by the bond.

e) The penal sum of the bond must be at least equal to the current closure cost estimate.

f) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the affected person, 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 cost 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 closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

g) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the affected

person and to the Office of Environmental Services. Cancellation may not occur, however, before 120 days have elapsed, beginning on the date that both the affected person and the administrative authority have received the notice of cancellation, as evidenced by the return receipts.

h) The wording of the surety bond guaranteeing payment into a standby trust fund shall be identical to the wording in LAC 33:IX.7395.Appendix E, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted.

v. Performance Bonds. An affected person may satisfy the requirements by obtaining a surety bond that conforms to the following requirements and submitting the bond to the Office of Environmental Services.

a) 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 be approved by the administrative authority.

b) The affected person who uses a surety bond to satisfy the requirements of this Subsection 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 agreement shall be identical to the wording in LAC 33:IX.7395.Appendix D, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The standby trust agreement shall be accompanied by a formal certification of acknowledgement (LAC 33:IX.7395.Appendix D).

c) The bond must guarantee that the affected person will:

i) perform final closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

ii) 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 affected person and the administrative authority receive notice of cancellation of the bond from the surety.

d) The terms of the bond must provide that the surety will become liable on the bond obligation when the affected person fails to

perform as guaranteed by the bond. Following a determination by the administrative authority that the affected person has failed to perform final 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 as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

e) The penal sum of the bond must be at least equal to the current closure cost estimate.

f) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the affected person, 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 cost estimate 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.

g) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the affected person and to the Office of Environmental Services. Cancellation may not occur before 120 days have elapsed, beginning on the date that both the affected person and the administrative authority have received the notice of cancellation, as evidenced by the return receipts.

h) The wording of the performance bond shall be identical to the wording in LAC 33:IX.7395.Appendix F, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted.

vi. Letter of Credit. An affected person may satisfy the requirements by obtaining an irrevocable standby letter of credit that conforms to the following requirements and submitting the letter to the Office of Environmental Services.

a) 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.

b) The affected person who uses a letter of credit to satisfy the requirements 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 identical to the wording in LAC 33:IX.7395.Appendix D, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The standby trust agreement shall be accompanied by a formal certification of acknowledgement (LAC 33:IX.7395.Appendix D).

c) The letter of credit must be accompanied by a letter from the affected person referring to the letter of credit by number, issuing institution, and date, and providing the following information:
   i) the agency interest number;
   ii) the site name, if applicable;
   iii) the facility name;
   iv) the facility permit number; and
   v) the amount of funds assured for closure of the facility by the letter of credit.

d) 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 affected person 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 affected person and the administrative authority have received the notice, as evidenced by the return receipts.

e) The letter of credit must be issued in an amount at least equal to the current closure cost estimate.

f) Whenever the current cost estimates increase to an amount greater than the amount of the credit, the affected person, 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 cost estimate and submit evidence of such increase to the Office of Environmental Services, or obtain other financial assurance as specified in this Subsection 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 cost estimate upon written approval of the administrative authority.

g) Following a determination by the administrative authority that the affected person has failed to perform final 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.

h) The wording of the letter of credit shall be identical to the wording

in LAC 33:IX.7395.Appendix G, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted.

vii. Insurance. An affected person may satisfy the requirements by obtaining insurance that conforms to the following requirements and submitting a certificate of such insurance to the Office of Environmental Services.

a) At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess- or surplus-lines insurer in one or more states, and authorized to transact insurance business in the state of Louisiana.

b) The insurance policy must be issued for a face amount at least equal to the current closure cost estimate.

c) 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.

d) The insurance policy must guarantee that funds will be available to close the facility. 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.

e) After beginning final closure, an affected person or any other person authorized by the affected person to perform closure may request reimbursement for 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 will instruct the insurer to make reimbursement in such amounts as the administrative authority specifies in writing.

f) The affected person must maintain the policy in full force and effect until the administrative authority consents to termination of the policy by the affected person.

g) Each policy must contain a provision allowing assignment of the policy to a successor of an affected person. Such assignment may be conditional upon consent of the insurer, provided consent is not unreasonably refused.

h) 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 affected person 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 affected person have received the 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:

i) the administrative authority deems the facility abandoned;

ii) the permit is terminated or revoked or a new permit is denied;

iii) closure is ordered;

iv) the affected person is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

v) the premium due is paid.

i) Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the affected person, within 60 days after the increase, must either increase the face amount to at least equal to the current closure cost estimate and submit evidence of such increase to the Office of Environmental Services, or obtain other financial assurance as specified in this Subsection to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the administrative authority.

j) The wording of the certificate of insurance shall be identical to the wording in LAC 33:IX.7395.Appendix H, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted.

viii. Financial Test. An affected person or a parent corporation of the affected person, which will be responsible for the financial obligations, may satisfy the requirements by demonstrating that a financial test is met. The assets of the parent corporation of the affected person shall not be used to determine whether the affected person satisfies the financial test, unless the parent corporation has supplied a corporate guarantee.

a) To pass this test, the affected person or parent corporation of the

affected person must meet either of the following criteria:

i) the affected person or parent corporation of the affected person must have:
   (a) tangible net worth of at least six times the sum of the current closure cost estimate to be demonstrated by this test and the amount of liability coverage to be demonstrated by this test;
   (b) tangible net worth of at least $10 million; and
   (c) assets in the United States amounting to either at least 90 percent of its total assets, or at least six times the sum of the current closure cost estimate, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test; or

ii) the affected person or parent corporation of the affected person must have:
   (a) a current rating for its 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*;
   (b) tangible net worth of at least $10 million; and
   (c) assets in the United States amounting to either 90 percent of its total assets or at least six times the sum of the current closure cost estimate, to be demonstrated by this test, and the amount of liability coverage to be demonstrated by this test.

b) To demonstrate that this test is met, the affected person or parent corporation of the affected person must submit the following three items to the Office of Environmental Services:

i) a letter signed by the chief financial officer of the affected person or parent corporation demonstrating and certifying the criteria and including the information required by this Section. If the financial test is provided to demonstrate both assurance for closure and liability coverage, a single letter to cover both forms of financial assurance is required;

ii) a copy of the report of the independent certified public accountant (CPA) on the financial statements of the affected person or parent corporation of the affected person for the latest completed fiscal year; and

iii) a special report from the independent CPA to the affected person or parent corporation of the affected person stating that:
   (a) the CPA has computed the data specified by the chief financial officer as having been derived from

the independently audited, year-end financial statements with the amounts for the latest fiscal year in such financial statements; and

(b) in connection with that procedure, no matters came to his attention that caused him to believe that the specified data should be adjusted.

c) 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 parent corporation (corporate guarantor) or affected person. The affected person or parent corporation must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

d) The affected person or parent corporation (if a corporate guarantor) of the affected person 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:IX.7395.Appendix I, except that the instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The letter shall certify the following information:

i) a list of facilities, whether in the state of Louisiana or not, owned or operated by the affected person of the facility, for which financial assurance for liability coverage is demonstrated through the use of financial tests, including the amount of liability coverage;

ii) a list of facilities, whether in the state of Louisiana or not, owned or operated by the affected person, for which financial assurance for the closure is demonstrated through the use of a financial test or self-insurance by the affected person, including the cost estimates for the closure of each facility;

iii) a list of the facilities, whether in the state of Louisiana or not, owned or operated by any subsidiaries of the parent corporation for which financial assurance for closure is demonstrated through the financial test or through use of self-insurance, including the current cost estimate for the closure for each facility and the amount of annual

aggregate liability coverage for each facility; and

iv) a list of facilities, whether in the state of Louisiana or not, for which financial assurance for closure is not demonstrated through the financial test, self-insurance, or other substantially equivalent state instruments, including the estimated cost of closure of such facilities.

e) For the purposes of this Subsection 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.

f) The phrase *current closure cost estimate* includes the cost estimate required to be shown in this Section.

g) After initial submission of the items, the affected person or parent corporation of the affected person 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 this Section.

h) The administrative authority may, on the basis of a reasonable belief that the affected person or parent corporation of the affected person may no longer meet the requirements, require reports of financial condition at any time in addition to those specified in this Section. If the administrative authority finds, on the basis of such reports or other information, that the affected person or parent corporation of affected person no longer meets the requirements, the affected person or parent corporation of the affected person must provide alternate financial assurance as specified in this Subsection within 30 days after notification of such a finding.

i) An affected person may meet the requirements for closure by obtaining a written guarantee, hereafter referred to as a *corporate guarantee*. The guarantor must be the parent corporation of the affected person. The guarantor must meet the requirements, submit all information required for affected persons and must comply with the terms of the corporate guarantee. The corporate guarantee must accompany the items sent to the administrative authority specified in this Section. The wording of the corporate guarantee must be identical to the wording in LAC 33:IX.7395.Appendix J, except that instructions in brackets are to be replaced with the relevant information, and the brackets deleted. The terms of the corporate guarantee must be in an authentic act signed and sworn by an authorized officer of the corporation before a notary public and must provide that:

i) the guarantor meets or exceeds the financial test criteria

and agrees to comply with the reporting requirements for guarantors;

ii) the guarantor is the parent corporation of the affected person of the facilities to be covered by the guarantee, and the guarantee extends to certain facilities;

iii) *closure plans*, as used in the guarantee, refers to the plans maintained as required by the state of Louisiana regulations for the closure of facilities, as identified in the guarantee;

iv) for value received from the affected person, the guarantor guarantees to the Office of Environmental Services that the affected person will perform closure 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 affected person fails to perform as specified in the closure plan, the guarantor shall do so or establish a trust fund in the name of the affected person, in the amount of the current closure cost estimate or as specified in this Section;

v) 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 affected person that he intends to provide alternative financial assurance as specified in this Subsection, in the name of the affected person, and that within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless the affected person has done so;

vi) 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;

vii) 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 the guarantor is disallowed from continuing as a guarantor of closure, the guarantor will establish alternate financial assurance as specified in this Subsection in the name of the affected person, unless the affected person has done so;

viii) 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 any other modification or alteration of an obligation of the affected person in accordance with these regulations;

ix) the guarantor agrees to remain bound under the guarantee for as long as the affected person must comply with the applicable financial assurance requirements for the facilities covered by the corporate guarantee, except that the guarantor may cancel this guarantee by sending notice by certified mail to the Office of Environmental Services and the affected person. The cancellation will become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the affected person, as evidenced by the return receipts;

x) the guarantor agrees that if the affected person fails to provide alternative financial assurance as specified in this Subsection, 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 affected person; and

xi) the guarantor expressly waives notice of acceptance of the guarantee by the administrative authority or by the affected person. The guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the facility permit.

ix. Local Government Financial Test

An affected person that is a local government and that satisfies the requirements of this Section may demonstrate financial assurance up to the amount specified in this Section.

a) Financial Component

i) The affected person must satisfy the following conditions, as applicable:

(a) if the affected person has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, he 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

(b) the affected person must have a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05 and a ratio of annual debt service to total expenditures less than or equal to 0.20 based on the affected person's most recent audited annual financial statement.

ii) The affected person must prepare its financial statements in conformity with *Generally Accepted Accounting Principles* for governments and have the financial statements audited by an independent certified public accountant (or appropriate state agency).

iii) A local government is not eligible to assure its obligations under this Subparagraph if it:

(a) is currently in default on any outstanding general obligation bonds;

(b) has any outstanding general obligation bonds rated lower than Baa as issued by *Moody's* or BBB as issued by *Standard and Poor's*;

(c) operated at a deficit equal to 5 percent or more of total annual revenue in each of the past two fiscal years; or

(d) 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. 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.

iv) The following terms used in this Paragraph are defined as follows.

(a) *Deficit*—total annual revenues minus total annual expenditures.

(b) *Total Revenues*—revenues from all taxes and fees, but not including the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

(c) *Total Expenditures*—all expenditures, excluding

capital outlays and debt repayment.

(d) *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.

(e) *Debt Service*—the amount of principal and interest due on a loan in a given time period, typically the current year.

b) Public Notice Component. The local government affected person must place a reference to the closure 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 sewage sludge, other feedstock, or supplements at the facility, whichever is later. Disclosure must include the nature and source of closure requirements, the reported liability at the balance sheet date, and the estimated total closure cost remaining to be recognized. For closure costs, conformance with *Governmental Accounting Standards Board Statement 18* assures compliance with this public notice component.

c) Recordkeeping and Reporting Requirements

i) The local government affected person must place the following items in the facility's operating record:

(a) a letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test. It must provide evidence that the local government meets the conditions of this Section, and certify that the conditions are met;

(b) 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, and unaudited statements 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;

(c) 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 this Section. The report by the certified public accountant or state agency should state the procedures performed and the findings of the certified public accountant or state agency; and

(d) a copy of the comprehensive annual financial report (CAFR) used to comply certifying that the requirements of *General Accounting Standards Board Statement 18* have been met.

ii) The items must be placed in the facility operating record, in the case of closure, either before the effective date of this Section or prior to the initial receipt of sewage sludge, other feedstock, or supplements at the facility, whichever is later.

iii) After the initial placement of the items in the facility's operating record, the local government affected person must update the information and place the updated information in the operating record within 180 days following the close of the affected person's fiscal year.

iv) The local government affected person is no longer required to meet the requirements of this Section when:

(a) the affected person substitutes alternate financial assurance, as specified in this Section; or

(b) the affected person is released from the requirement of maintaining financial assurance in accordance with this Section.

v) A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government affected person no longer meets the requirements of the local government financial test, it must, within 210 days following the close of the affected person'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 affected person no longer meets the criteria of the financial test and that alternate assurance has been obtained.

vi) The administrative authority, based on a reasonable belief that the local government affected person 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 affected person no longer meets the local government financial test, the local government must provide alternate financial assurance in accordance with this Section.

d) Calculation of Costs to be Assured. The portion of the closure and corrective action costs that a local government affected person can assure is determined as follows:

i) if the local government affected person does not assure other environmental obligations through a financial test, it may assure closure and corrective action costs that equal up to 43 percent of the local government's total annual revenue; or

ii) if the local government assures other environmental obligations through a financial test, including those associated with underground injection control (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, or hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, or any applicable corresponding state program, it must add those costs to the closure and corrective action costs it seeks to assure, and the total that may be assured must not exceed 43 percent of the local government's total annual revenue; and

iii) the affected person must obtain an alternate financial assurance instrument for those costs that exceed the limits.

x. Local Government Guarantee

An affected person may demonstrate financial assurance for closure by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test of this Section, and must comply with the terms of a written guarantee.

a) Terms of the Written Guarantee. The guarantee must be effective before the initial receipt of sewage sludge, other material, feedstock, or supplements or before the effective date of this Section, whichever is later, in the case of closure. The guarantee must provide that:

i) if the affected person fails to perform closure of a facility covered by the guarantee, the guarantor will:

(a) perform closure, or pay a third party to perform closure; or

(b) establish a fully funded trust fund in the name of the

affected person; and

(ii) the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the affected person 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 affected person and the administrative authority, as evidenced by the return receipts. If a guarantee is canceled, the affected person must, within 90 days following receipt of the cancellation notice by the affected person 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 affected person fails to provide alternate financial assurance within the 90-day period, then the guarantor 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.

b) Recordkeeping and Reporting

i) The affected person must place a certified copy of the guarantee, along with the required items, into the facility's operating record before the initial receipt of sewage sludge, other material, feedstock, or supplements or before the effective date of this Section, whichever is later.

ii) The affected person is no longer required to maintain the items specified in this Section when:

(a) the affected person substitutes alternate financial assurance as specified in this Section; or

(b) the affected person is released from the requirement of maintaining financial assurance in accordance with this Section.

iii) If a local government guarantor no longer meets the requirements, the affected person 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 affected person fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

xi. Use of Multiple Instruments. An affected person may demonstrate financial assurance for closure and corrective action, by establishing more than one financial mechanism per facility, except that instruments guaranteeing performance, rather than payment, may not be combined with other instruments. The instruments must be as specified in this Section, except that financial assurance for an amount at least equal to the current cost estimate for closure and/or corrective action may be provided by a combination of instruments, rather than a single mechanism.

xii. Discounting. The administrative authority may allow discounting of closure cost estimates up to the rate of return for essentially risk-free investments, net of inflation, under the following conditions:

a) the administrative authority determines that cost estimates are complete and accurate and the affected person has submitted a statement from a registered professional engineer to the Office of Environmental Services so stating;

b) the state finds the facility in compliance with applicable and appropriate permit conditions;

c) the administrative authority determines that the closure date is certain and the affected person certifies that there are no foreseeable factors that will change the estimate of site life; and

d) discounted cost estimates are adjusted annually to reflect inflation and years of remaining life.

4. Incapacity of Affected Persons, Guarantors, or Financial Institutions

a. All affected persons subject to this Section must 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 affected person as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee set forth in LAC 33:IX.7395.Appendix J.

b. An affected person who fulfills the requirements by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage 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 surety bond, letter of credit, or insurance policy to issue such instruments. The affected person must establish other financial assurance or liability coverage within 60 days after

such an event.

SECTION M. TERMINATION OF AUTHORIZATION

This Office reserves the right to revoke the authorization to dispose sewage sludge in a landfill permitted to accept sewage sludge in accordance with this general permit as it applies to any person and/or require such person to apply for and obtain an individual sewage sludge if:

1. the covered source or activity is a significant contributor to pollution or otherwise creates other environmental problems;

2. the permittee is not in compliance with the terms and conditions of this general permit; or

3. the conditions or standards have changed so that the source or activity no longer qualifies for this general permit.

This Office also reserves the right to revoke the authorization to dispose sewage sludge in a landfill permitted to accept sewage sludge in accordance with this general permit upon issuance of a joint LPDES/State Sewage Sludge & Biosolids Use or Disposal permit to the facility.

SECTION N. PERMIT CANCELLATION REQUIREMENTS.

Should the permittee wish to cease the activity and cancel authorization under this general permit, written notification must be submitted to this Office. This notification must contain at a minimum: the company name, the facility name, general permit authorization number, and description of the change in activities prompting the permittee's request for cancellation.

PART III

STANDARD CONDITIONS

Applicable to All Sewage Sludge and Biosolids Use or Disposal Permits

SECTION A. DUTY TO COMPLY

1. The permittee shall comply with all conditions in this permit. Failure to comply with this permit constitutes a violation of the Louisiana Environmental Quality Act, as amended (La. R. S. 30:2001 et seq.) and is grounds for an enforcement action or for modification, revocation and reissuance, or termination of the permit.
2. Authorization to prepare sewage sludge and any other material prepared with sewage sludge pursuant to the conditions of this permit does not relieve the permittee of any liability for damages to private property.

SECTION B. PERMIT ACTIONS

1. The Department of Environmental Quality reserves the right to modify, revoke, and reissue this permit to conform to any applicable sludge use or disposal standard, promulgated under the Louisiana Environmental Quality Act, as amended (La. R. S. 30:2001 et seq.) or under Section 405(d) of the Clean Water Act, which is more stringent than any limitation on the affected sludge pollutant or acceptable use or disposal practice authorized in this permit, or which controls a pollutant or use or disposal practice not limited in this permit.
2. This permit may be modified or revoked and reissued where there are material and substantial alterations or additions to the permitted facility or activity, including a change in the permittee's sludge use or disposal practices, and which justify different or additional permit conditions.
3. The permittee shall give prior notice to Administrative Authority of any planned changes in the sewage sludge disposal practice. These changes may justify the application of permit conditions that are different from or absent in the existing permit.
4. This permit may be revoked and reissued due to changes in the permitted facility or activity, planned by the permittee, which may result in the failure to comply with permit requirements.
5. The permittee may transfer this permit to a new owner or operator if the permit has been either modified or revoked and reissued to identify the new permittee and to incorporate such other requirements as may be necessary to assure compliance with the Louisiana Environmental Quality Act.
6. The permittee, upon prior authorization of the permitting authority, may transfer this permit to a new permittee if the following conditions have been met:

a. The permittee notifies the permitting authority of the proposed transfer date at least thirty (30) days in advance;
b. The notice includes a written agreement between the permittee and the proposed new permittee(s) which contains a date for transfer of permit responsibility, coverage, and liability; and
c. The permittee does not receive notification from the permitting authority that it will exercise its discretion to modify or revoke and reissue the permit. Under this circumstance, the permit transfer is effective on the date specified in the written agreement.

7. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, does not justify the failure to comply with any permit condition.
8. The filing by the permittee of a notification of planned changes or of anticipated noncompliance does not justify the failure to comply with any permit condition.
9. The permittee shall submit a new application at least 180 days before the expiration date of the existing permit in order to continue an activity regulated hereunder, unless permission for a later date has been granted by the Administrative Authority. In no case may permission be granted to submit a new application later than the expiration date of the existing permit.
10. Provisions of this permit may be appealed in writing pursuant to La. R.S. 30:2024(A) within thirty (30) days from receipt of the permit. Only those provisions specifically appealed will be suspended by a request for hearing unless the Secretary or Assistant Secretary elects to suspend other provisions as well.

SECTION C. PROPER OPERATION AND MAINTENANCE

1. Need to Halt or Reduce not a Defense. It shall not be a defense for a permittee 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 this permit.
2. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any sewage sludge use or disposal practice in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying practice.
3. Proper Operation and Maintenance
   a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of

back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and other functions necessary to ensure compliance with the conditions of this permit.

SECTION D. LABORATORY ACCREDITATION

1. LAC 33:I.Subpart 3, Chapters 45-59 provide requirements for an accreditation program specifically applicable to commercial laboratories, wherever located, that provide chemical analyses, analytical results, or other test data.
2. Laboratory data generated by commercial environmental laboratories that are not accredited under these regulations will not be accepted by the department. Retesting of analysis will be required by an accredited commercial laboratory.
3. Where retesting is not possible, the data generated will be considered invalid and in violation of the Sewage Sludge and Biosolids Use or Disposal permit.
4. Regulations on the Environmental Laboratory Accreditation Program and a list of labs that have applied for accreditation are available on the department website located at: **http://www.deq.louisiana.gov/portal/tabid/72/Default.aspx**.
5. Questions concerning the program may be directed to (225) 219-9800.

SECTION E. INSPECTIONS AND INFORMATION

1. The permittee shall furnish to the permitting authority, within a reasonable time, any information requested for the purposes of determining compliance with the permit or determining whether cause exists for modifying, revoking and reissuing, or terminating this permit. The permittee shall also furnish, upon request of the permitting authority, copies of any records required to be kept under the conditions of this permit.
2. The permittee shall allow a properly credentialed representative of the administrative authority to perform the following functions:
   a. Enter the permittee's premises where a regulated facility is located, where a regulated activity is being conducted, or where records are required to be kept under the conditions of this permit.
   b. At reasonable times, have access to and copy any records required to be kept under the conditions of this permit.
   c. At reasonable times, inspect any facilities, equipment (including monitoring and control equipment), practices, or operations either regulated or required under this permit.
   d. At reasonable times, sample and monitor any substances, parameters or practices at any location, either for the purposes of assuring permit compliance or as otherwise authorized by the regulations at LAC 33:IX.Chapter 73 for the Standards for the Use or Disposal of Sewage Sludge and Biosolids.

SECTION F. COMPLIANCE SCHEDULES

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of a permit shall be submitted no later than 14 days following each schedule date.

SECTION G. ANTICIPATED NONCOMPLIANCE

The permittee shall give advance notice to the state administrative authority of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

SECTION H. OTHER NONCOMPLIANCE

The permittee shall report all instances of noncompliance, not reported under F and G above, at the time monitoring reports are submitted.

SECTION I. ADDITIONAL NOTIFICATION

1. The permittee shall notify the administrative authority 30 days prior to any planned alteration or addition to the permitted facility which results in a significant change in the permittee's sludge use or disposal practices, where such alteration, addition or change may justify different or additional permit conditions. The permittee shall also notify the permitting authority 30 days prior to any additional use or disposal sites not previously reported during the permit application process or not reported pursuant to an approved land application site.
2. The permittee shall notify the permitting authority 30 days prior to any planned changes in the permitted facility or activity which may result in the permittee's failure to comply with permit requirements.
3. The permittee shall promptly submit to the permitting authority any relevant facts or information where the permittee becomes aware of its failure to have previously submitted such information or to have previously submitted incorrect information in a permit application or in any report.
4. The permittee shall report to the permitting authority all instances of its failure to comply with the conditions of this permit. Reports of the permittee's failure to comply shall be submitted with the permittee's next self-monitoring report or earlier, if requested by the permitting authority or if required by an applicable sludge use or disposal standard or permit conditions.

SECTION J. SIGNATORY REQUIREMENTS

1. Reports

   All notifications of intent, notices of termination, reports, certifications or information either submitted to the Administrative Authority, or that this permit requires be maintained by the permittee, shall be signed as follows:

   a. For a corporation: by a responsible corporate officer. For the purpose of this permit, a responsible corporate officer means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (b) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

   b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or,

   c. For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (a) the chief executive officer of the agency, or (b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Authorized Representative

   All reports required by the permit and other information requested by the Administrative Authority shall be signed by a person described in A. above or be signed by a duly authorized representative of that person. A person is a duly authorized representative only if:

   a. The authorization is made in writing by a person described above and submitted to the Administrative Authority.

   b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

3. Changes to Authorization

   If an authorization under Number 2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a notification satisfying the requirements of this Section must be submitted to the

Administrative Authority prior to or together with any reports, information, or applications to be signed by an authorized representative.

SECTION K. CERTIFICATION

Any person signing documents under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with 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 a fine and imprisonment for knowing violations."

SECTION L. RECORDKEEPING

1. The permittee shall retain records of all data used to complete the application for this permit for a period of at least five years, unless required by LAC 33:IX.Chapter 73 to be retained for a longer period.
2. The permittee shall retain all records of monitoring information required by this permit, related to the permittee's sludge generation, treatment, use and disposal activities, for a period of at least five years from the date of the sample or measurement, unless required by LAC 33:IX.Chapter 73 to be retained for a longer period.
3. The permittee shall retain copies of all reports required by this permit for a period of at least five years from the date of the report, unless required by LAC 33:IX.Chapter 73 to be retained for a longer period.
4. At any time upon the request of the permitting authority, the period required for retention of records and reports may be extended.
5. All reports and information submitted to the administrative authority shall be signed and certified by the following individual, as appropriate; by a responsible corporate officer; by a general partner or the proprietor; by the principle executive office or ranking public official of a municipality, State, federal or other public agency; or by a duly authorized representative.

SECTION M. AVAILABILITY OF RECORDS

All recorded information (completed permit application forms, fact sheets, draft permits, reporting forms or any public document) not classified as confidential information under R.S. 30:2030(A) and 30:2074(D) and designated as such in accordance with LAC 33:IX.2323.A & .C and LAC 33:IX.6503 shall be made available by the Department to the public for inspection and

copying during normal working hours in accordance with the Public Records Act, R.S. 44:1 et seq.

SECTION N. CLAIMS OF CONFIDENTIALITY

Claims of confidentiality for the following will be denied:

1. The name and address of any permit applicant or permittee;

2. Permit applications, permits, and effluent data; and,

3. Information required by the Sewage Sludge and Biosolids Use or Disposal Permit application forms provided by the state administrative authority may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

SECTION O. ENFORCEMENT ACTIONS

The Department may take enforcement action as prescribed by state law or regulation against any person who fails to comply with any condition of the permit or with the Standards for the Use or Disposal of Sewage Sludge and Biosolids regulations (LAC 33:IX.Chapter 73).

SECTION P. STATE LAWS

Nothing in an issued permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation.

SECTION Q. ADDRESS(ES)

All Permit Renewals, Notices of Changes of Owner and/or Operator, Notices of Violations, Notices of Termination, or Changes to Authorizations are to be sent to the following address:

Assistant Secretary
Louisiana Department of Environmental Quality
Office of Environmental Services
P.O. Box 4313
Baton Rouge, Louisiana 70821-4313

PART IV

DEFINITIONS

Administrative Authority - the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Air Operations Area - any area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft. *Air operations areas* include paved areas or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft, in addition to its associated runways, taxiways, or aprons.

Apply Biosolids or Biosolids Applied to the Land - land application of Biosolids.

Base Flood - a flood that has a 1 percent chance of occurring in any given year (i.e., a flood with a magnitude equaled once in 100 years).

Beneficial Use - the use of biosolids for the purpose of soil conditioning or crop or vegetative fertilization in a manner that does not pose a danger of adverse effects upon human health or the environment or cause any deterioration of land surfaces, soils, surface waters, or groundwater.

Biosolids - sewage sludge, or material derived from sewage sludge, that is nonhazardous, has a PCB concentration of less than 50 mg/kg of total solids (dry weight), and is prepared to meet one of the pollutant requirements of LAC 33:IX.7303.E, one of the pathogen requirements in LAC 33:IX.7309.C, and one of the vector attraction reduction requirements in LAC 33:IX.7309.D.

Bulk Biosolids - biosolids that are not sold or given away in a bag or other container for application to the land.

Class B Biosolids - biosolids that do not meet one or more of the following requirements:

a. the pollutant concentrations in Table 3 of LAC 33:IX.7303.E;
b. the pathogen requirements in LAC 33:IX.7309.C.1;
c. one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e; and/or
d. a PCB concentration of less than 10 mg/kg of total solids (dry weight basis).

Class I Sludge Management Facility - for the purposes of this Chapter:

a. any *publicly owned treatment works (POTW)* or *privately owned sanitary wastewater treatment facility (POSWTF)*, as defined in this Subsection, regardless of its ownership, that is used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage;
b. any person who prepares sewage sludge or biosolids, including a commercial preparer of sewage sludge and pumper of sewage sludge who prepares sewage sludge or biosolids;

c. an owner/operator of a sewage sludge incinerator; and
d. an applier of biosolids to the land, including a commercial land applier of biosolids.

Commercial Land Applier of Biosolids - any person who applies biosolids to the land for monetary profit or other financial consideration and the biosolids were obtained from a facility or facilities not owned by or associated with the person.

Commercial Preparer of Sewage Sludge - any person who prepares sewage sludge for monetary profit or other financial consideration and either the person is not the generator of the sewage sludge or the sewage sludge was obtained from a facility or facilities not owned by or associated with the person. *Commercial preparer of sewage sludge* includes a pumper of sewage sludge that prepares sewage sludge received from other pumpers of sewage sludge and/or a pumper of sewage sludge that prepares sewage sludge received from his pumping/hauling operation.

Commercial preparer of sewage sludge does not include a *publicly owned treatment works* or a *privately owned sanitary wastewater treatment facility* which does not receive hauled sewage sludge.

Container - any stationary or portable device in which sewage sludge or biosolids are stored or transported.

Contaminate an aquifer - to introduce a substance that causes the maximum contaminant level for nitrate in 40 CFR 141.62(b) to be exceeded in the groundwater, or that causes the existing concentration of nitrate in groundwater to increase when the existing concentration of nitrate in the groundwater exceeds the maximum contaminant level for nitrate in 40 CFR 141.62(b).

Cover Crop - a small grain crop, such as oats, wheat, or barley, not grown for harvest.

Domestic Septage - liquid or solid material removed from a septic tank, holding tank or similar device, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. *Domestic septage* does not include liquid or solid material removed from a septic tank, holding tank or similar device, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater, and does not include grease removed from a grease trap at a *food service facility*, as defined in this Subsection.

Domestic Sewage - waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

Dry Weight Basis - calculated on the basis of having been dried at 105°C until reaching a constant mass (i.e., essentially 100 percent solids content).

Exceptional Quality Biosolids - biosolids that are nonhazardous and meet the ceiling concentrations in Table 1 of LAC 33:IX.7303.E, the pollutant concentrations in Table 3 of LAC 33:IX.7303.E, the pathogen requirements in LAC 33:IX.7309.C.1, and one of the vector attraction reduction requirements in LAC 33:IX.7309.D.2.a-e, and that have a PCB concentration of less than 10 mg/kg of total solids (dry weight).

Feed Crop - a crop produced primarily for consumption by animals.

Feedstock - primarily biologically decomposable organic material that is blended, mixed, or composted with sewage sludge.

Fiber Crops - crops such as flax and cotton.

Food Crops - crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.

Food Service Facility - any facility that prepares and/or packages food or beverages for sale or consumption, on- or off-site, with the exception of private residences. *Food service facilities* include, but are not limited to, food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, and other similar facilities.

Free Air Space, n - air-filled pore volume of an as-received compost material. Express free air space as a percentage, volume of *free air space* per unit volume of compost (% v v, ±0.1 %).

Grease - a material either liquid or solid, composed primarily of fat, oil, or grease from animal or vegetable sources. The terms *fats oils and grease*, *oil and grease* and *oil and grease substances* shall all be included within this definition.

Groundwater - water below the land surface in the saturated zone.

Industrial Park - an area that is legally zoned for the purpose of the construction and operation of a group of industries and businesses and entered as legally zoned for such purpose in the public records of the state, parish, city, town, or community where the park is located.

Industrial Wastewater - wastewater generated in a commercial or industrial process.

Institution - the building or buildings that are utilized to house an established organization or foundation, especially one dedicated to public service or to culture. An *institution* includes, but is not limited to, an established school, hospital, business, day-care facility, nursing home, hotel/motel, playground, park, golf course, place of worship, or restaurant/food establishment.

Land Application - the beneficial use of biosolids by either spraying or spreading onto the land surface, injection below the land surface, or incorporation into the soil.

Material Derived from Sewage Sludge—biosolids that are produced when sewage sludge is prepared with other solid waste materials, feedstocks, supplements, and industrial sludges that are approved to be prepared with sewage sludge under these regulations.

Other Container - an open or closed receptacle, including, but not limited to, a bucket, a box, a carton, and a vehicle or trailer with a load capacity of 1 metric ton or less.

Permitting Authority - either EPA or a state with an EPA-approved sludge management program.

Person - any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent or subdivision thereof, or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, the state of Louisiana, political subdivisions of the state, commissions, and interstate bodies.

Person Who Prepares Sewage Sludge - the person who generates sewage sludge during the treatment of domestic sewage in a treatment works, the person who treats sewage sludge, or the person who derives a material from sewage sludge.

Pollutant - an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information available to the administrative authority, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms.

Pollutant Limit - a numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (e.g., milligrams per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (e.g., kilograms per hectare); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

Private Land Applier - anyone who applies biosolids to the land for private benefit purposes, where the land application is not for monetary profit or other financial consideration, and either the applier did not generate or prepare the sewage sludge or material derived from sewage sludge, or the facility or facilities from which the biosolids were obtained are not owned by or associated with *the private land applier*.

Privately Owned Sanitary Wastewater Treatment Facility (*POSWTF*) - a privately owned treatment works that is utilized to treat sanitary wastewater and is not a *Publicly Owned Treatment Works (POTW)*, as defined in this Subsection.

Publicly Owned Treatment Works (POTW) - a *treatment works*, as defined by Section 212 of the Clean Water Act, that is owned by a *state* or *municipality*, as defined by Section 502(3) and (4) of the Clean Water Act. This includes all devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW; and the *municipality*, as defined by Section 502(4) of the Clean Water Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Pumper of Sewage Sludge - a person who removes sludge from a sanitary wastewater treatment facility; domestic septage from a residential septic tank, mechanical treatment plant, or dump station for recreational vehicles and watercrafts or vessels; residuals from a portable toilet; or grease from a food service facility that is mixed with sewage sludge.

Qualified Groundwater Scientist - an individual with a baccalaureate or post-graduate degree in the natural sciences or engineering who has sufficient training and experience in ground-water hydrology, subsurface geology, and/or related fields, as may be demonstrated by state registration, professional certification, or completion of accredited university programs, to make sound professional judgments regarding ground-water monitoring, pollutant fate and transport, and corrective action.

Responsible Official - a person who meets any of the following criteria:

1. for a corporation - a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities;
2. for a partnership or sole proprietorship - a general partner or the proprietor, respectively; or
3. for a municipality or a state, federal, or other public agency - either a principal executive officer or ranking elected official. For the purposes of this Subpart, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

Runoff - rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.

Sewage Sludge - any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. *Sewage sludge* includes, but is not limited to, solids

removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. *Sewage sludge* does not include grit or screenings, or ash generated during the incineration of sewage sludge.

Sludge-Only Facility - any facility whose methods of sewage sludge use or disposal are subject to regulations promulgated in accordance with Section 405(d) of the Clean Water Act, and that is required to obtain a permit under Subsection D of this Section.

Storage Facility - an area of land or constructed facility committed to hold sewage sludge or biosolids until the material may be used or disposed at on- or off-site locations.

Storage of Sewage Sludge or Biosolids - the temporary placement of sewage sludge or biosolids in a container, storage facility, tank, or directly on the land. *Storage of sewage sludge or biosolids* does not pertain to a container or tank that is utilized for the *treatment of sewage sludge*, as defined in this Subsection.

Supplements - materials blended, composted, or mixed with sewage sludge or other feedstock and sewage sludge in order to raise the moisture level and/or adjust the carbon-to-nitrogen ratio, and materials added during composting or to compost to provide attributes required by customers for certain compost products.

Surface Disposal - a use or disposal of sewage sludge on the land that does not meet the criteria of land application, as defined in this Subsection. *Surface disposal* does not include the disposal of sewage sludge in a landfill permitted to receive sewage sludge.

Tank - a stationary device designed to contain an accumulation of sewage sludge or biosolids that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic), which provide structural support.

Transporter of Sewage Sludge - a person who pumps or moves sewage sludge off-site by means of land-based vehicles, barges, ships, rails, pipelines, or other modes of transportation. For oxidation ponds/lagoons/surface impoundments, this includes the removal of the sewage sludge from the oxidation ponds/lagoons/surface impoundments to the levees surrounding the oxidation ponds/lagoons/surface impoundments.

Treatment of Sewage Sludge - the preparation of sewage sludge for final use or disposal. This includes, but is not limited to, blending, mixing, composting, thickening, stabilization, and dewatering and solidification of sewage sludge. This does not include storage of sewage sludge.

Treatment Works - a federally owned, publicly owned, or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste of a liquid nature.

TSCA - Toxic Substances Control Act.