

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

**§303. Wastes Not Subject to the Permitting Requirements, ~~or Processing, or Disposal~~
Requirements and Standards of These Regulations**

A.1.-10.

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

A.12-13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1027 (June 2007), LR 33:2140 (October 2007), LR 37:3235 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:0000 (February 2014).

§304. Wastes Not Subject to the Permitting, Processing, Disposal, or Storage Requirements and Standards of These Regulations

A.1.-7. ...

8. spent abrasive media generated from abrading coated or uncoated surfaces, provided the material is not hazardous waste, has been evaluated and managed according to LAC 33:VII.1103.A, and meets the Risk Evaluation Corrective Action Program, LAC 33:I.Chapter 13 (RECAP) non-industrial screening option (SO) or management option (MO)-1 limiting standard; and

9. potentially impacted soil, as that term is defined in LAC 33:VII.1102, provided the material is not hazardous waste, has been evaluated and managed according to LAC 33:VII.1103.A, and meets the RECAP non-industrial SO or MO-1 limiting standard.

AUTHORITY NOTE:

HISTORICAL NOTE:

Chapter 11. Beneficial Use of Solid Waste ~~Beneficial Use and Soil Reuse~~

§1101. Applicability

A. Generators and other persons or facilities may beneficially use solid wastes ~~beneficial use and soil reuse options apply to all solid waste generators. Solid waste beneficial use is available to solid waste streams that are otherwise typically disposed of in a permitted solid waste disposal facilities and that provided that meet certain the requirements as described in this Chapter are met.~~

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007), LR 35:1880 (September 2009).

§1102. Definitions

A. For the purposes of Chapter 11 and Section 3011 of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

Impacted – when soil, spent abrasive media, or other material proposed for Beneficial Use contains a constituent of concern (i.e. contaminant, pollutant, etc.) which exceeds the limiting standard for non-industrial land use, as defined under the Risk Evaluation and Corrective Action Program (RECAP).

AUTHORITY NOTE:

HISTORICAL NOTE:

§1103. ~~On-Site Soil Reuse Requirements~~ Potentially Impacted Soil and Spent Abrasive Media Beneficial Use Requirements

~~A. Soil that is to be reused on site is exempt from these regulations provided the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil meeting the *non-industrial* standards in the RECAP document. This Section is limited to *in-situ* contaminated soil and does not include sludges and sediments from regulated solid waste units. Any person claiming this exemption shall have records clearly documenting the particular soils reused on-site pursuant to the exemption, including, for example, soil source, soil quantities, and site locations where the soil was reused.~~

~~B. Soil that is not exempt under Subsection A of this Section and that is to be reused on-site at an *industrial/commercial* property, as that term is defined in the RECAP document, is exempt from these regulations, provided that:~~

~~1. the level of contaminants in the soil is at or below the pertinent RECAP standards developed by the department in accordance with LAC 33:I.Chapter 13, as applicable to surface soil located in an area meeting the *industrial* standards (MO-1 or MO-2) in the RECAP document;~~

~~2. the owner or operator of the property notifies the Office of Environmental Services, in writing, of his intent to reuse soil on-site, and attaches the following to the notification:~~

~~a. a characterization of the soil in question;~~

~~b. a description of the property in question;~~

~~e. — a description of the proposed uses of the soil on site (e.g., levee construction, road bed construction, construction fill, daily cover in a regulated facility, etc.); and~~

~~d. — an on-site soil reuse plan regarding the reuse of the soil in question, which shall address at least the following:~~

- ~~i. — procedures for storage of the soil pending reuse;~~
- ~~ii. — procedures for handling, transportation, and application of the soil on-site;~~
- ~~iii. — procedures for recordkeeping; and~~
- ~~iv. — any other procedures required for the protection of human health and the environment (e.g., security, restricted site access, institutional controls, control of storm water runoff, etc.); and~~

~~3. — the administrative authority notifies the owner/operator of the facility upon the approval of the on-site soil reuse plan.~~

~~C. — Soil that is not addressed in Subsection A or B of this Section and that is to be reused on-site shall be addressed in accordance with LAC 33:VII.303.A.11, or LAC 33:VII.Chapter 11, or as otherwise deemed appropriate by the administrative authority.~~

A. On-site or off-site re-use of soils meeting RECAP non-industrial standards. Potentially impacted material (i.e. soil or spent abrasive media) proposed to be beneficially used on-site or off-site of generation is exempt from these regulations provided the levels of all constituents-of-concern (COCs) in the soil or spent media are determined to be at or below the

SO or MO-1 non-industrial limiting standard in accordance with LAC 33:I.Chapter 13, as applicable to surface soil. Regarding soil, this Section is limited to soil or spent abrasive media determined to be non-impacted, and does not include sludges and sediments from regulated solid waste units. Any person may claim this exemption for each pile (or portion thereof) proposed to be beneficially used provided that the end user follows the quality evaluation procedures in LAC 33:VII.1103.A.1-6 for each pile (or portion thereof) proposed to be beneficially used, and retain all associated documentation. Records documenting compliance with LAC 33:VII.1103.A.1-7 shall be retained for a minimum of three years:

1. potentially impacted material (soil or spent abrasive media) must be analytically tested;

2. the sample(s) collected for analysis must be representative of the material under investigation (examples: top and four sides of a pile, or portions taken from different evenly spaced locations of the amount under investigation);

3. the sample(s) must be analyzed by a LELAP certified laboratory using appropriate chain-of-custody;

4. analytes/constituents of concern (COCs) targeted must represent the range of contaminants suspected to be present, and analyses must be conducted using appropriate EPA SW-846 Methods;

Example for spent abrasive media: Metals using EPA Methods 6010B/7471A; the analyte list may include antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, molybdenum, nickel, selenium, silver, thallium, or zinc as appropriate; example for

soil containing refined hydrocarbon spills: See RECAP appendix D, Table D-1, for indicator compounds, and hydrocarbon fractions;

5. sample analysis results must be accompanied by appropriate quality assurance documentation (minimum laboratory quantitation levels for analytes, and acceptable data quality for precision and accuracy) according to LELAP certified Methods and procedures;

6. the sample analysis results must be kept on-site and available for inspection upon request from the administrative authority, formatted as a comparative table that must demonstrate that tested material does not exceed appropriate RECAP standards; and

7. tested material determined to be non-impacted must be segregated from material that has not undergone evaluation procedures A.1-6.

B. On-site re-use of soils meeting RECAP industrial standards at an industrial facility. Impacted material (i.e., soil or spent abrasive media) proposed to be beneficially used on-site where generated at a non-residential *industrial/commercial* property, as that term is defined in the RECAP document, is exempt from these regulations provided the levels of all constituents-of-concern (COCs) in the soil or spent media are determined to be at or below the industrial SO, MO-1, or MO-2 limiting standard in accordance with LAC 33:I.Chapter 13, as applicable to surface soil. A leachate test (e.g. Synthetic Precipitation Leaching Procedure) may be used in lieu of the Soil_{gw} Remedial Standard (RS) for evaluating the soil to groundwater pathway. This subsection is limited to impacted soil and does not include sludges and sediments from regulated solid waste units. Any person may claim this exemption for each pile (or portion thereof) proposed to be beneficially used on-site, provided that the property owner or material generator:

1. follows procedures at LAC 33:VII.1103.A.1-7 and retains all records documenting compliance with LAC 33:VII.A.1-7 for a minimum of three years;

2. notifies the Office of Environmental Services of intent to beneficially use acceptable material on-site (use form available on the LDEQ website). The notification shall include, but not be limited to, the following information;

a. a characterization (laboratory analysis) of the acceptable quality material per LAC 33:VII.1103.A.6;

b. a description of where on-site the acceptable quality material will be beneficially used;

c. a description of the proposed uses of acceptable quality material on-site (e.g., levee construction, road bed construction, construction fill, daily cover in a regulated facility, etc.);

d. an on-site management plan for acceptable quality material, which shall address at least the following:

i. procedures for storage of material pending use;

ii. procedures for handling, transportation, and application of the material on-site;

iii. procedures for recordkeeping; and

iv. any other procedures required for the protection of human health and the environment (e.g., security, restricted site access, institutional controls, control of storm water runoff, etc.); and

3. receives approval for the on-site management plan from the administrative authority, which may conditionally approve requests for on-site beneficial use of continuously generated acceptable material; and

4. updates the parish conveyance records specifying that impacted material of non-residential standard quality was placed on the property. The notice document shall identify the name and address of a person knowledgeable of the placement activity. An example notice form to be used for this purpose is provided in LAC 33:VII.3011.Appendix F. The facility shall provide the Office of Environmental Services with a true copy of the notice document filed and certified by the parish clerk of court.

C. Off-site re-use of materials meeting the limiting standard for industrial land use in accordance with RECAP. Impacted material proposed to be beneficially used off-site of generation, and which has been determined to meet RECAP industrial standards according to Subsection B of this Section, shall be addressed in accordance with LAC 33:VII.1105.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007), LR 33:2153 (October 2007).

§1105. Beneficial Use of Other Solid Waste

A. ~~An~~ The application for beneficial use of solid waste streams (including impacted soils and spent abrasive media satisfying conditions at LAC 33:VII.1103.B, but proposed to be beneficially re-used off-site of generation) which are not exempt under LAC 33:VII.304 shall provide must be submitted for approval and include the following information:

1. the name, address, and telephone number of :
 - a. the applicant;,
2. ~~the name, address, and telephone number of~~
 - b. the applicant's primary contact for departmental correspondence and inquiries; and
 - c. ~~of the applicant's attorney or other~~ representative, if applicable;
3. ~~the~~ physical address, latitude and longitude coordinates, or other satisfactory site-of-origin description of the solid waste proposed for beneficial use;
4. ~~the~~ chemical and physical characteristics of the material to be beneficially used, which shall be obtained in accordance with evaluation procedures at LAC 33:VII.1103.A.1-6 as appropriate;
5. ~~statements of the quantity, quality, consistency, and source of the solid waste;~~
6. for solid waste materials, a description of the process by which the solid waste is generated, and a demonstration that the generator has minimized the quantity and

toxicity of the solid waste proposed for beneficial use to the extent reasonably practicable. The applicant shall provide a detailed narrative, and schematic diagram, of the production, manufacturing, and/or residue process by which the solid waste that will be beneficially used is generated; for soils, the applicant must provide a map showing the location of where the soils were generated, and where the soils will be beneficially re-used;

76. a detailed description of the processing activity, if applicable, that will be used to make the solid waste suitable for beneficial use;

87. a demonstration that there is a known or reasonably probable market for the intended use of the beneficial use material proposed to be beneficially used, or products made thereof, such as a contract to purchase or utilize the material, a description of how the material will be used, a demonstration that the material complies with industry standards for a product, or other documentation that a market exists, and, where applicable, documentation that required permits and or approvals from local, state, and federal agencies have been obtained;

98. a description of the proposed methods of handling, storing, and utilizing the beneficial use material proposed to be beneficially used, or products made thereof, to ensure that it will not adversely affect the public health or safety, or the environment. This description shall consist of:

a. a statement of procedures to be employed for periodic testing for quality control purposes;

b. a statement of intended storage procedures that will be used, including:

- i. run-on/run-off stormwater control;
 - ii. the maximum anticipated inventory of material proposed to be beneficially used, or products made thereof;
 - iii. measures to ensure that no contamination of underlying soil or groundwater occurs; any other procedures required for the protection of human health and the environment (e.g., security, restricted site access, institutional controls, including conveyance record notices, etc.);
 - iv. measures for dispersion control due to wind; and
- c. recordkeeping procedures;

~~109.~~ an acknowledgement that at least 75 percent of the material proposed to be beneficially used, or products made thereof, placed in storage during a year will be:

a. sent to market or to other secure storage within the following year, unless the operator demonstrates that a particular order requires greater than one year of product storage prior to shipment; or

b. utilized according to the stated purpose of the Plan.

~~110.~~ a demonstration that the end use of the material is protective of public health, safety, and the environment;

~~1211.~~ a discussion of the end users of the material and the locations of the end-use; and

1312. any other information the ~~secretary~~ administrative authority may require or the applicant believes will demonstrate that the proposed beneficial use of the material will conserve, improve, and/or protect human health, natural resources, and the environment.

B. The Beneficial Use Plan ~~a~~Application shall be signed by the applicant and the individual or individuals responsible for actually preparing the information and supporting data submitted with the application, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate, and complete to the best of my knowledge and belief.

"I understand that a false statement made in the submitted information may be punishable as a criminal offense, in accordance with La. R.S. 30:2025(F) and in accordance with any other applicable statute."

C. Upon approval of the Beneficial Use Plan Application, the material shall be handled, processed, stored, and properly or otherwise managed in accordance with the approved proposed pPlan, outlined in the application or properly disposed at a permitted solid waste facility.

D. The approved Beneficial Use Plan is effective as of the date indicated on the signature page and shall remain in effect for a maximum period of five (5) years from the effective date, unless suspended, modified, revoked & reissued, or terminated for just cause.
Plan Holders that wish to continue beneficial use activities after the Plan expiration date must

reapply at least 180 calendar days before the effective Plan's expiration date. The Plan will remain in effect beyond the Plan's expiration date until the Administrative Authority issues a final decision on the re-application, provided the Plan Holder has submitted a timely, complete new plan application according to LAC 33:VII.1105.

~~D-E.~~ Respondents in actions to enforce regulations who raise a claim that the transportation, storage, handling, processing, and/or use of certain material has been approved by the administrative authority pursuant to this Section must demonstrate that there is a known or reasonably probable market or disposition for the material and that the terms of this Section and any department approval are met. In doing so, respondents must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not discarded, but is, instead, subject to beneficial use. In addition, owners or operators of facilities claiming that they actually are preparing materials for beneficial use pursuant to this Section must be able to show that they have the necessary equipment to do so. The administrative authority may modify, revoke or rescind any prior approval provided by the department pursuant to this Section upon failure of a respondent to provide adequate proof in accordance with this Subsection.

~~F-E.~~ The Louisiana Pulp and Paper Association and the department established an agreement in May 1997 regarding the applicability of the solid waste regulations (LAC 33:Part.VII) to a variety of materials produced by the pulp and paper industry. This agreement, found in LAC 33:VII.3017.Appendix I, may be utilized by the pulp and paper industry in lieu of submitting a beneficial use plan.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1086 (June 2007).

§3011. Document to be Filed in the Parish Records upon Final Closure of a Solid Waste Disposal Facility or upon Placement of Impacted Material—Appendix F

A. Document to be Filed in the Parish Records upon Final Closure of a Solid Waste Disposal Facility

[Name of permit holder] hereby provides notice ~~notifies the public~~ that the following described property was used for ~~the disposal of solid waste~~ disposal. This ~~site~~ facility was closed on [date facility was closed] in accordance with the *Louisiana Administrative Code*, Title 33, Part VII. Inquiries regarding the ~~contents of facility~~ location and waste types contained therein ~~[the facility]~~ may be directed to [name of person with knowledge of ~~the contents~~ of the facility] at [address of person with knowledge of ~~the contents~~ of the facility].

Property Description

[Provide ~~the~~ a site map and/or specific written description of the solid waste disposal ~~the location of the facility~~ location]

Signature of Person Filing Parish Record

Typed Name and Title of Person Filing Parish Record

Date

(A true copy of the document must be certified by the parish clerk of court.)

B. Document to be Filed in the Parish Records upon Placement of Impacted Material

[Name of owner or person in control of the property] hereby provides notice that impacted material was placed on the following described property in accordance with the Louisiana Administrative Code, Title 33, Part VII, Chapter 11. Inquiries regarding material characterization and placement location at [the property address and/or coordinate description] may be directed to [name of person with knowledge of material placement at the property] at [address of person with knowledge of material placement at the property].

Property Description

[Provide a) a general area delineation or ‘footprint’ on a site or property map showing the maximum extent of material placements, b) a specific and/or general description of where material placement occurred and for what purposes, and c) a table of known

constituents-of-concern (COCs) in the placed material, comparing the limiting RECAP standards with measured concentrations.]

Signature of Person Filing Parish Record

Typed Name and Title of Person Filing Parish Record

Date

(A true copy of the document must be certified by the parish clerk of court.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2537 (November 2000), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1119 (June 2007).