

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.Chapter 105 (Log #SW030).

This rule clarifies the notification and submittal processes for the waste tire regulations. Prior to this rule, all submittal notices and notifications were referenced to the department or referenced to the Solid Waste Division, which has been reorganized through departmental reengineering. This rule will give specific instructions as to where the general public should submit all documents pertinent to the waste tire chapter of the solid waste regulations, making the submittal process easier for both the general public and the department. This rule also eliminates obsolete wording that was mistakenly left in the waste tire regulations. Departmental reengineering has necessitated the clarification of all submittal and notification processes for all regulations promulgated by the department. Without these clarifications, the general public would not be able to submit pertinent information in an easy and timely manner. The basis and rationale for this rule are to clarify the submittal and notification process for the general public and to remove all mention of incorrect division references.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 25, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by SW030. Such comments must be received no later than May 2, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-5095. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of SW030.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-

first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste**

Chapter 105. Waste Tires

§10505. Definitions

The following words, terms, and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

* * *
[See Prior Text]

Administrative Authority—the secretary of the Department of Environmental Quality or his ~~delegate,~~ designee or the appropriate assistant secretary ~~of the Office of Solid and Hazardous Waste~~ or his ~~delegate~~ designee.

* * *
[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:37 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996),), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2773 (December 2000), LR 27:

§10513. Permit Process for Existing Facilities Classified for Upgrade and for Proposed Facilities

* * *
[See Prior Text in A]

1. No sooner than 45 days prior to the submittal of a standard permit application to the ~~Solid Waste Division~~ Office of Environmental Services, Permits Division, the prospective applicant shall publish a notice of intent to submit an application for a waste tire standard permit. This notice shall be published one time as a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of this state and the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches, in the legal or public notices section of the official journal of the state will be the only public notice required.

* * *
[See Prior Text in A.2-B]

1. Any applicant for a standard permit for an existing or proposed facility shall complete a waste tire standard permit application, and submit four copies to the ~~department~~ Office of Environmental Services, Permits Division. Each individual copy of the application shall be in standard three-ring-bound documents measuring 8 1/2 by 11 inches. All appendices, references, exhibits, tables, etc., shall be marked with appropriate tabs.

* * *
[See Prior Text in B.2-D]

1. The applicant shall make available to the ~~Solid Waste Division~~ department the assistance of registered engineers or other trained individuals responsible for the design of the facility to explain the design and operation.

* * *
[See Prior Text in D.2-F.1.c]

d. one copy to ~~the Solid Waste Division~~ a department regional office; and

* * *
[See Prior Text in F.1.e-5]

6. Public Notice of a Public Hearing. If the administrative authority determines that a hearing is necessary, a notice shall be published at least 20 days before a fact-finding hearing in the official journal of the state and in the official journal of the parish or municipality where the facility is located. The notice shall be published one time as a single classified advertisement measuring three columns by five inches in the legal or public notices section of the official journal of the state and one time as classified advertisement in the legal or public notices section of the official journal of the parish where the facility is located. If the affected area is Baton Rouge, a single classified advertisement measuring three columns by five inches in the official journal of the state shall be the only public notice required. Those persons on the ~~Solid Waste Division's~~ department's mailing list for hearings shall be mailed notice of the hearing at least 20 days before a public hearing. A notice shall also be published in the departmental bulletin, if available.

* * *
[See Prior Text in F.7-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), , amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), LR 27:

§10515. Agreements with Waste Tire Processors

Standard permitted waste tire processors may apply to the ~~administrative authority~~Office of Management and Finance, Financial Services Division for subsidized funding to assist them with waste tire processing and marketing costs. This application form is available from the ~~administrative authority~~Office of Management and Finance, Financial Services Division.

* * *
[See Prior Text in A-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:

§10517. Standard Waste Tire Permit Application

Each applicant requesting a standard permit in accordance with these regulations shall complete the permit application, including, but not limited to, the information included in this Section and submit it to the Office of Environmental Services, Permits Division.

* * *
[See Prior Text in A-C.3]

4. governmental agency collection centers may accept waste tires from roadside pickup, from rights-of-way, individual residents, and unauthorized waste tire piles. For the tires from unauthorized waste tire piles to be eligible for the \$1.50 per 20 pounds marketing payment to permitted processors as indicated in LAC 33:VII.10535, the governmental agency must notify the ~~department~~Office of Management and Finance, Financial Services Division, in writing, of the agency's intent prior to removing the tires from said site;

* * *
[See Prior Text in C.5-6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:39 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2776 (December 2000), LR 27:

§10519. Standards and Responsibilities of Generators of Waste Tires

A. Within 30 days of commencement of business operations, generators of waste tires shall notify the ~~department~~Office of Environmental Services, Permits Division of their existence and obtain a generator identification number prior to initiating a waste tire manifest. Notification shall be on a form provided by the ~~department~~Office of Environmental Services, Permits Division.

* * *
[See Prior Text in B-C]

D. All tire dealers shall remit the waste tire fee, as specified in LAC 33:VII.10535.B and C, to the department on a monthly basis on or before the twentieth day following the month covered. The fee shall be submitted to the Office of Management and Finance, Financial Services Division, along with the Monthly Waste Tire Fee Report Form WT01 obtained from the ~~department~~Office of Management and Finance, Financial Services Division. Until December 31, 2001, the fee shall be reported on Form WT01 in the following tire categories: passenger/light truck, medium truck, and off-road. On January 1, 2002, the fee shall be reported on Form WT02 and shall include all categories of tires listed in Appendix C. Every tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be open for inspection by the administrative authority at all reasonable hours.

E. Tire dealers must provide notification to the public sector via signs, made available by the ~~department~~Office of Management and Finance, Financial Services Division, indicating that:

* * *
[See Prior Text in E.1-K]

L. A generator who ceases the sale of tires at the registered location shall notify the ~~administrative authority~~Office of Environmental Services, Permits Division within 10 days of the date of the close or relocation of the business. This notice shall include information regarding the location and accessibility of the tire sale and monthly report records.

* * *
[See Prior Text in M-O]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:

§10523. Standards and Responsibilities of Waste Tire Transporters

A. Transporters of waste tires shall complete the application for transporter authorization form and submit the application, with the payment of the transporter fees as specified in LAC 33:VII.10535.A, to the ~~administrative authority~~Office of Management and Finance, Financial Services Division.

* * *
[See Prior Text in B-F]

G. All persons subject to this Section shall notify the ~~administrative authority~~Office of Management and Finance, Financial Services Division in writing within 10 days when any information on the authorization certificate form changes, or if they close their business and cease transporting waste tires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2778 (December 2000), LR 27:

§10525. Standards and Responsibilities of Waste Tire Processors

* * *
[See Prior Text in A]

B. On a form obtained from the ~~administrative authority~~Office of Management and Finance, Financial Services Division, all processors shall submit to the ~~department~~Office of Management and Finance, Financial Services Division a monthly report, which shall include a certified record of pounds of tires processed during the month, along with all completed manifests for the month and the log recording all unmanifested waste tires deposited at the facility. The monthly report shall also include a certified record of the pounds of waste tire material that have been marketed and delivered as a product or raw material for beneficial reuse. An alternative method of reporting sale of waste tire material shall be developed and approved for each processor that uses a process other than shredding. The alternative method shall be approved by the administrative authority.

* * *
[See Prior Text in C-D.13]

a. the waste tire facility operator shall submit to the Office of Management and Finance, Financial Services Division an estimate of the maximum total amount by weight of waste tire material that will be stored at the processing facility at any one time;

b. the waste tire facility operator shall also submit to the Office of Management and Finance, Financial Services Division two independent, third-party estimates of the total cost of cleaning up and closing the facility, including the cost of loading the waste tire material, transportation to a permitted disposal site, and the disposal cost; and

* * *
[See Prior Text in D.13.c-E.6]

7. Mobile processors are responsible for notifying the ~~administrative authority~~Office of Environmental Services, Permits Division in writing within 10 days when any information on the notification changes or if they cease processing waste tires with a mobile unit.

F. Governmental agencies may operate tire splitting equipment for the purposes of volume reduction prior to disposal without a permit to process waste tires, provided they meet the requirements outlined in LAC 33:VII.10517.C and request authorization from the ~~administrative authority~~Office of Management and Finance, Financial Services Division before initiating any processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2779 (December 2000), LR 27:

§10531. Standards And Responsibilities of Qualified Recyclers

A. Within 30 days of promulgation of these rules and regulations, recyclers shall notify the ~~department~~Office of Environmental Services, Permits Division of their existence and obtain an identification number. Notification shall be on a form provided by the ~~department~~Office of Environmental Services, Permits Division, including, but not limited to:

* * *
[See Prior Text in A.1-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:

§10533. Manifest System

* * *
[See Prior Text in A-B.2]

3. the designated processing facility operator completes Section 3 of the manifest and retains a copy for his files. The designated processing facility operator shall submit the original manifest to the ~~department~~Office of Management and Finance, Financial Services Division with the monthly processor report. The designated processing facility shall send all remaining copies to the generator no later than seven days after delivery;

* * *
[See Prior Text in B.4]

5. a generator must submit to the ~~department~~Office of Management and Finance, Financial Services Division written notification, if he has not received a copy of the manifest with the handwritten signature of the designated destination facility operator within 45 days of the date the shipment was accepted by the transporter. The notification shall include:

* * *
[See Prior Text in B.5.a-b]

C. Upon discovering a discrepancy in the number or type of tires in the load, the designated destination facility must attempt to reconcile the discrepancy with the generator(s) or transporter(s). The destination facility operator must submit to the ~~administrative authority~~Office of Management and Finance, Financial Services Division, within five working days, a letter describing the discrepancy and attempts to reconcile it and a copy of the manifest(s). After the discrepancy is resolved a corrected copy is to be sent to the ~~administrative authority~~Office of Management and Finance, Financial Services Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), LR 27:

§10535. Fees and Fund Disbursement

A. Permit and Application Fees. Each applicant shall submit to the Office of Environmental Services, Permits Division a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application or authorization application form.

* * *
[See Prior Text in A.1-C]

1. the entire waste tire fee shall be forwarded to the ~~administrative authority~~Office of Management and Finance, Financial Services Division by the tire dealer and shall be deposited in the Waste Tire Management Fund.

* * *
[See Prior Text in C.2-D.6]

7. Payments shall be made to the processor on a monthly basis, after properly completed monthly reports are submitted by the processor to the ~~department~~Office of Management and Finance, Financial Services Division. Reporting forms will be provided by the ~~administrative authority~~Office of Management and Finance, Financial Services Division.

* * *
[See Prior Text in D.8-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:

§10536. Remediation of Unauthorized Tire Piles

* * *
[See Prior Text in A]

B. In order to apply for and receive funding for unauthorized waste tire site remediation, local governments must provide the ~~administrative authority~~Office of Management and Finance, Financial Services Division with unauthorized waste tire site information. This information includes, but is not limited to, accurate site location, number of tires on site, visual report on site with photographs and proximity to residences, schools, hospitals and/or nursing homes, and major highways. Such information shall be submitted using forms available from the ~~administrative authority~~Office of Management and Finance, Financial Services Division.

* * *
[See Prior Text in C]

D. State agencies, parish, or local governments may consolidate several smaller waste tire piles provided they obtain prior approval from the ~~administrative authority~~Office of Management and Finance, Financial Services Division. Consolidating the piles for the purpose of remediation may increase the priority ranking of the site in question.

E. Waste tires may not be removed from ~~promiscuous~~/unauthorized waste tire piles without prior approval of the ~~administrative authority~~Office of Management and Finance, Financial Services Division.

* * *
[See Prior Text in F-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, amended LR 20:1001 (September 1994), LR 22:1213 (December 1996), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2782 (December 2000), LR 27:

Louisiana Department of Environmental Quality
 Financial Assurance Documents For
 Waste Tire Facilities
 (August 4, 1994)

The following documents are to be used to demonstrate financial responsibility for the closure of waste tire facilities. The wording of the documents shall be identical to the wording that follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted.

SAMPLE DOCUMENT 1:

WASTE TIRE FACILITY FINANCIAL GUARANTEE BOND

Date bond was executed: [Date bond executed]

Effective date: [Effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name and business address]

[site identification number, site name, facility name, and current closure amount for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality Waste Tire Management Fund in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we the sureties bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all or us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit or liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

NOW THEREFORE, if the Principal shall provide alternate financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval from the ~~administrative authority~~ Office of Management and Finance, Financial Services Division of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority from the Surety, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the administrative authority that the Principal has failed to perform

closure in accordance with the closure plan and permit requirements as guaranteed by this bond, the Surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the ~~administrative authority~~ Office of Management and Finance, Financial Services Division. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the ~~administrative authority~~ Office of Management and Finance, Financial Services Division, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this FINANCIAL GUARANTEE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this FINANCIAL GUARANTEE BOND on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105. Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETIES

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[This information must be provided for each cosurety]

Bond Premium: \$

SAMPLE DOCUMENT 2:

WASTE TIRE FACILITY PERFORMANCE BOND

Date bond was executed: [date bond executed]

Effective date: [effective date of bond]

Principal: [legal name and business address of permit holder or applicant]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation:

Surety: [name(s) and business address(es)]

[Site identification number, site name, facility name, facility address, and closure amount(s) for each facility guaranteed by this bond]

Total penal sum of bond: \$

Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety hereto, are firmly bound to the Louisiana Department of Environmental Quality, Waste Tire Management Fund, in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where Sureties are corporations acting as cosureties, we, the sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS, said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA) and the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., to have a permit in order to own or operate the waste tire facility identified above; and

WHEREAS, the Principal is required by law to provide financial assurance for closure care, as a condition of the permit;

THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of the facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

OR, if the Principal shall provide financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of the ~~administrative authority~~ Office of Management and Finance, Financial Services Division of such assurance, within 90 days after the date of notice of cancellation is received by both the Principal and the administrative authority, then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinabove.

Upon notification by the administrative authority that the Principal has been found in violation of the closure requirements of the *Louisiana Administrative Code*, Title 33, Part VII, or of its permit, for the facility for which this bond guarantees performances of closure, the Surety shall either perform closure, in accordance with the closure plan and other permit requirements, or place the closure amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

Upon notification by the administrative authority that the Principal has failed to provide alternate financial assurance as specified in LAC 33.VII.10525.D.12-14 and obtain written approval of such assurance from the ~~administrative authority~~Office of Management and Finance, Financial Services Division during the 90 days following receipt by both the Principal and the administrative authority of a notice of cancellation of the bond, the surety shall place funds in the amount guaranteed for the facility into the Waste Tire Management Fund as directed by the administrative authority.

The Surety hereby waives notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations, and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of the penal sum.

The Surety may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the ~~administrative authority~~Office of Management and Finance, Financial Services Division. Cancellation shall not occur before 120 days have elapsed beginning on the date that both the Principal and the administrative authority received the notice of cancellation, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety and to the administrative authority, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the administrative authority.

The Principal and Surety hereby agree that no portion of the penal sum may be expended without prior written approval of the administrative authority.

IN WITNESS WHEREOF, the Principal and the Surety have executed this PERFORMANCE BOND and have affixed their seals on the date set forth above.

Those persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that each Surety hereto is authorized to do business in the state of Louisiana and that the wording of this surety bond is identical to the wording specified by the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate Seal]

CORPORATE SURETY

[Name and Address]

State of incorporation:

Liability limit:

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond Premium: \$

SAMPLE DOCUMENT 3:

WASTE TIRE FACILITY IRREVOCABLE LETTER OF CREDIT

Secretary

Louisiana Department of Environmental Quality

Post Office Box 82231

Baton Rouge, Louisiana 70884-2231

Dear Sir:

We hereby establish our Irrevocable Standby Letter of Credit Number [number] in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [permit holder's or applicant's name and address] for the closure fund for its [list site identification number, site name, and facility name] at [location], Louisiana for any sum or sums up to the aggregate amount of U.S. dollars \$ [number] upon presentation of:

- (1) A sight draft, bearing reference to the Letter of Credit Number [number] drawn by the administrative authority together with;
- (2) A statement signed by the administrative authority, declaring that the operator has failed to perform closure in accordance with the closure plan and permit requirements and that the amount of the draft is payable into the Waste Tire Management Fund.

The Letter of Credit is effective as of [date] and will expire on [date], but such expiration date will be automatically extended for a period of at least one year on the above expiration date, and on each successive expiration date thereof, unless, at least 120 days before the then current expiration date, we notify both the ~~administrative authority~~ Office of Management and Finance, Financial Services Division and the [name of permit holder or applicant] by certified mail that we have decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of this Letter of Credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both the Department of Environmental Quality and [name of permit holder/applicant] as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft to the Department of Environmental Quality for deposit into the Waste Tire Management Fund in the name of [name of permit holder or applicant] in accordance with the administrative authority's instructions.

Except as otherwise expressly agreed upon, this credit is subject to the uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce Publication Number 400, or any revision thereof effective on the date of issue of this credit.

We certify that the wording of this Letter of Credit is identical to the wording specified in the Louisiana Department of Environmental Quality's Waste Tire Regulations, LAC 33:VII.Chapter 105.Appendix A dated August 4, 1994, effective on the date shown immediately below.

[Signature(s) and Title(s) of Official(s) of issuing Institutions]

[Date]

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Person Preparing Statement: Kimberly Detillier Phone: (225) 765-0381

Dept.: Environmental Quality Office: Environmental Assessment

Return Address: P.O.Box 82178 Baton Rouge, LA 70884-2178

Rule Title: Waste Tire Clarifications Date Rule Takes Effect: Upon promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

There will be no costs or savings to state or local governmental units.

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

There will be no estimated effect on revenue collections of state or local governmental units.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Signature of Agency Head or Designee

Signature LEGISLATIVE FISCAL OFFICER OR DESIGNEE

James H. Brent, Ph.D., Assistant Secretary Typed Name and Title of Agency Head or Designee

Date of Signature LFO 7/1/94

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This rule clarifies the notification and submittal processes for the waste tire regulations. Prior to this rule, all submittal notices and notifications were either incorrectly referenced to the Solid Waste Division, which has been reorganized through departmental reengineering, or referenced to the department. This rule will give specific instructions as to where the general public should submit all documents pertinent to the waste tire chapter of the solid waste regulations, making the submittal process easier for both the general public and the department. This rule also eliminates obsolete wording that was mistakenly left in the waste tire regulations.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Departmental reengineering has necessitated the clarification of all submittal and notification processes for all regulations promulgated by the department. Without these clarifications, the general public would not be able to submit pertinent information in an easy and timely manner.

- C. Compliance with Act II of the 1986 First Extraordinary Session (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule change will not result in any increase in the expenditure of funds.

- 2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) Yes. If yes, attach documentation.
(b) No. If no, provide justification as to why this rule change should be published at this time.

This is not applicable.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 01-02	FY 02-03	FY 03-04
PERSONAL SERVICES	0	0	0
OPERATING EXPENSES	0	0	0
PROFESSIONAL SERVICES	0	0	0
OTHER CHARGES	0	0	0
EQUIPMENT	0	0	0
<u>TOTAL</u>	0	0	0
<u>MAJOR REPAIR & CONSTR.</u>	0	0	0
<u>POSITIONS(#)</u>	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There will be no new costs or savings as a result of this rule since it is only a clarification of submittal and notification procedures for already existing documents.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 01-02	FY 02-03	FY 03-04
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (Specify)	0	0	0
<u>TOTAL</u>	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No additional funds will be required to implement the proposed rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

Local governmental units will not be impacted, as the proposed rule will not affect any government owned or operated solid waste facility.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

No sources of funding of the local governmental units will be affected.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 01-02	FY 02-03	FY 03-04
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
RESTRICTED FUNDS*	0	0	0
FEDERAL FUNDS	0	0	0
LOCAL FUNDS	0	0	0
<u>TOTAL</u>	0	0	0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This rule will have no impact on revenues.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There would be no impact on persons or non-governmental groups.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There would be no impact on receipts and/or income of persons or non-governmental groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There would be no net impact on competition or employment in the public and private sectors.