

## NOTICE OF INTENT

Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division

Solid Waste Exemptions, Containers, and Buffer Zones  
(LAC 33:VII.301, 503, 508, 709, 717, and 719) (SW046)

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.301, 503, 508, 709, 717, and 719 (Log #SW046).

This rule clarifies that a container storing solid waste shall prevent leakage into or out of the container. The rule establishes a 50-foot buffer zone requirement for non-processing transfer stations transferring nonputrescible solid waste, such as construction and/or demolition waste. It also clarifies that all adjoining landowners must sign an affidavit allowing a reduction in a facility's buffer zone requirement. The rule adds two exemptions from the definition of solid waste that have been present in the Environmental Quality Act for quite some time, but never appeared in the regulations. The exemptions regard automotive fluff and uncontaminated scrap metal materials. This rule is necessary to clarify language regarding container storage of solid waste and requests for reductions in buffer zones for solid waste management facilities, and to make the buffer zone requirements consistent for facilities handling the same waste stream. Allowing non-processing transfer stations transferring nonputrescible solid waste to have smaller buffer zones will make the requirements for those facilities consistent with other solid waste management facilities handling nonputrescible waste that currently have smaller buffer zones. Adding the exemption language from the Act will make the regulations consistent with the law. The basis and rationale for this proposed rule are to clarify and provide consistency in the solid waste regulations. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on January 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW046. Such comments must be received no later than January 31, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to [judith.schuerman@la.gov](mailto:judith.schuerman@la.gov). Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW046. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM  
Executive Counsel

**Title 33  
ENVIRONMENTAL QUALITY**

**Part VII. Solid Waste**

**Subpart 1. Solid Waste Regulations**

**Chapter 3. Scope and Mandatory Provisions of the Program**

**§301. Exempted Waste**

A. - A.2.d.iv. ...

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1027 (June 2007), LR 33:2140 (October, 2007), LR 33:0000 (November 2007), LR 34:\*\*.

**Chapter 5. Solid Waste Management System**

**Subchapter A. General Standards for Nonpermitted Facilities**

**[Formerly Chapter 7.Subchapter A]**

**§503. Standards Governing Solid Waste Accumulation and Storage [Formerly §703]**

A. Solid Waste Accumulation

1. ...

2. Containers used for solid waste shall:

a. prevent access by rodents and insects; ~~shall~~

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

c. prevent leakage into or out of and shall keep out water the container.

A.3. - C.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007), LR 34:\*\*.

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

A. – A.4. ...

B. New facilities in which construction has commenced after June 20, 2007, shall comply with ~~the~~ a buffer zone requirement of not less than 200 feet between the facility and the property line. Facilities transferring only nonputrescible waste shall comply with a buffer zone requirement of not less than 50 feet between the facility and the property line. A reduction in ~~this~~ the buffer zone requirement shall be allowed only with the permission, in the form of a notarized affidavit, of ~~the~~ all adjoining landowners. A copy of the notarized affidavit waiving the 200-foot or 50-foot buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes in which the adjoining landowner's' propertyies are-is located. The affidavit shall be maintained with the records of the facility. No storage of solid waste shall occur within a facility's buffer zone.

C. - M. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007), amended LR 33:2142 (October 2007), LR 34:\*\*

**Chapter 7. Solid Waste Standards**

**Subchapter A. Landfills, Surface Impoundments, Landfarms**

**§709. Standards Governing Type I and II Solid Waste Disposal Facilities [Formerly some of the provisions in Subsections A and B existed in §521.]**

A. - B.2.d. ...

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of ~~the~~ all adjoining landowners. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes for the adjoining landowner's' propertyies. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with these regulations and for existing facilities.

B.3.b. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:1045 (June 2007), LR 34:\*\*

**Subchapter B. Solid Waste Processors**

**§717. Standards Governing All Type I-A and II-A Solid Waste Processors**

A. - B.2.d. ...

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of ~~the~~all adjoining landowners. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes for the adjoining landowner's' propertyies. Buffer zone requirements may be waived or modified by the administrative authority for areas of processing facilities that have been closed in accordance with these regulations and for existing facilities.

B.3.b. - I.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:1061 (June 2007), LR 33:2148 (October 2007), LR 34:\*\*.

**Subchapter C. Minor Processing and Disposal Facilities**

**§719. Standards Governing All Type III Processing and Disposal Facilities [Formerly some of the provisions in Subsections A, B, and E existed in §521.]**

A. - B.2.d. ...

3. Buffer Zones

a. Buffer zones of not less than 50 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of ~~the~~all adjoining landowners. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes for the adjoining landowner's' propertyies. Buffer zone requirements may be waived or modified by the administrative authority for areas of woodwaste/construction/demolition-debris

landfills that have been closed in accordance with these regulations and for existing facilities. Notwithstanding this Paragraph, Type III air curtain destructors and composting facilities that receive putrescible, residential, or commercial waste shall meet the buffer zone requirements in LAC 33:VII.717.B.3. In addition, air curtain destructors shall maintain at least a 1,000-foot buffer from any dwelling other than a dwelling or structure located on the property on which the burning is conducted (unless the appropriate notarized affidavit waivers are obtained).

B.3.b. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1065 (June 2007), LR 33:2148 (October 2007), LR 34:\*\*.

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

LOG #: SW046

Person  
Preparing  
Statement:

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Return  
Address:

P.O. Box 4302  
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Rule  
Title: Solid Waste Exemptions, Containers,  
and Buffer Zones (LAC 33:VII:301, 503,  
508, 709, 717 and 719)

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 cost or savings to the state or local governmental units as a result of the proposed rule.

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

There will be no increase or decrease in revenues of state or local governmental units as a result of this proposed rule.

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

Landowners that are neighbors to certain solid waste management facilities, and private and public owners and operators of non-processing transfer stations transferring nonputrescible solid waste, will benefit from the proposed rule. Less land will need to be purchased to comply with a 50-foot buffer zone, resulting in a savings in cost for the facility and less property loss for adjoining landowners. A provision that has been problematic for the department because it could be read as requiring only one adjoining landowner to sign an affidavit in order for a solid waste management facility to be allowed a decreased buffer zone will be clarified.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of this proposed rule.

\_\_\_\_\_  
Signature of Agency Head or Designee

\_\_\_\_\_  
Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel  
Typed Name and Title of Agency Head or Designee

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
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 that a container storing solid waste shall prevent leakage into or out of the container. The rule establishes a 50-foot buffer zone requirement for non-processing transfer stations transferring nonputrescible solid waste, such as construction and/or demolition waste. It also clarifies that all adjoining landowners must sign an affidavit allowing a reduction in a facility's buffer zone requirement. The rule adds two exemptions from the definition of solid waste that have been present in the Environmental Quality Act for quite some time, but never appeared in the regulations. The exemptions regard automotive fluff and uncontaminated scrap metal materials.

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

This rule is necessary to clarify language regarding container storage of solid waste and requests for reductions in buffer zones for solid waste management facilities, and to make the buffer zone requirements consistent for facilities handling the same waste stream. Allowing non-processing transfer stations transferring nonputrescible solid waste to have smaller buffer zones will make the requirements for those facilities consistent with other solid waste management facilities handling nonputrescible waste that currently have smaller buffer zones. Adding the exemption language from the Act will make the regulations consistent with the law.

- C. Compliance with Act 11 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.

There will be no 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 question 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 07-08	FY 08-09	FY 09-10
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR			
POSITIONS (#)	-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 cost or savings to the state as a result of the proposed rule.

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

SOURCE	FY 07-08	FY 08-09	FY 09-10
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	-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?

Additional funding will not be required in order to implement this 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.

There will be no cost or savings to local government as a result of this proposed rule.

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

This question is not applicable.

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 07-08	FY 08-09	FY 09-10
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

\*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.

There will be no increase or decrease in revenues as a result of this proposed rule.

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.

Landowners that are neighbors to certain solid waste management facilities, and private and public owners and operators of non-processing transfer stations transferring nonputrescible solid waste, will benefit from the proposed rule. Less land will need to be purchased to comply with a 50-foot buffer zone, resulting in a savings in cost for the facility and less property loss for adjoining landowners. A provision that has been problematic for the department because it could be read as requiring only one adjoining landowner to sign an affidavit in order for a solid waste management facility to be allowed a decreased buffer zone will be clarified.

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 will be no impact on receipts or income resulting from this proposed rule.

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 will be no effect on competition or employment as a result of this proposed rule.