

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Solid and Hazardous Waste Solid Waste Division

Waste Tire Priority System (LAC 33:VII.Chapter 105) (SW021E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under authority of R.S. 30:2011, the secretary of the Department of Environmental Quality declares that an emergency action is necessary to ensure efficient management of promiscuous/unauthorized waste tire piles. Waste tires that are not processed in accordance with LAC 33:VII.10501 et seq. create environmental and health-related problems and pose a significant threat to the safety of the community should a fire occur.

It is necessary for the DEQ to adopt this emergency rule because the present regulations prevent the department from rapid response to tire piles that pose an immediate environmental threat. The emergency rule will accomplish a priority system that will continuously update the prioritization of sites throughout the year. The previous priority system established a list that could not be updated to include those sites that were potentially more dangerous or more of a nuisance. The emergency rule will also add proximity to major highways and hospitals and nursing homes as a factor in the prioritization system.

This emergency rule is effective on June 5, 1996, and shall remain in effect for the maximum of 120 days or until a final rule is promulgated, whichever occurs first.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

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]

Major Highway—all asphaltic concrete and concrete interstate and intrastate highways and roads maintained by the United States government or Louisiana state government, or both, or any agencies or departments thereof.

* * *

[See Prior Text]

Marketing—the selling and transferring of waste tires or waste tire material for recycling and/or beneficial use or reuse.

* * *

[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:

§10536. Cleanup of Promiscuous/Unauthorized Tire Piles

A. Upon promulgation of these regulations, the administrative authority may issue agreements for cleanup of promiscuous/unauthorized tire piles. The number of agreements issued each year shall be determined based on the availability of funds in the Waste Tire Management Fund that are designated for promiscuous/unauthorized tire pile cleanup. Any such agreements will designate specific eligible sites and the department will monitor the cleanup activities, which shall be made in accordance with the standards and responsibilities outlined in the Solid Waste Regulations, LAC 33:VII. Any such agreements shall stipulate a maximum amount of total allowable costs that shall be paid from the Waste Tire Management Fund. These monies shall not be applied to indirect costs and other unallowable costs which include but are not limited to, administrative costs, consulting fees, or legal fees. Furthermore, they shall not be applied to reclamation efforts or cleanup costs associated with other types of contaminants which may be detected during the remediation process. Rather, these funds shall be applied to direct costs such as labor, transportation, processing, and disposal costs of the waste tires.

B. In order to apply for and receive funding for promiscuous/unauthorized tire site cleanup, local governments must provide the administrative authority with promiscuous/unauthorized 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 will be submitted using forms available from the administrative authority.

C. Promiscuous/unauthorized tire piles shall be chosen for cleanup based on their placement on the waste tire priority cleanup list. Point values will be assigned in accordance with the Waste Tire Management Fund Prioritization System located in Appendix B. These ranking criteria were developed in consideration of threat to human health, threat of damage to surrounding property, and adverse impact on the environment.

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[See Prior Text in D]

E. Waste tires may not be removed from promiscuous/unauthorized waste tire piles without prior approval of the administrative authority.

F. The administrative authority will seek reimbursement from all responsible parties for any waste tire cleanup costs incurred by the state by any method allowed by law, provided same is practicable and cost effective.

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:

**Appendix B
Waste Tire Management Fund Prioritization System**

Each waste tire site for which cleanup funds are solicited will be ranked according to the point system described below. The total number of points possible for any one site is 145 points. The points shall be allocated according to the following criteria:

I. Approximate Number of Tires in the Pile. This figure shall be an estimate by the department.

Number of Tires in Pile	Point Value
>1,000,000	50
250,001 - 1,000,000	40
100,001 - 250,000	30
50,001 - 100,000	20
<50,000	10

II. Proximity to Nearest Schools. If a school is located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to Nearest School	Point Value
School within 2 mile radius	25
School within 4 mile radius	17
School within 6 mile radius	9

III. Proximity to Residences. If 50 or more residences are located within the radius described below then the corresponding point value is assigned. Only one category may be chosen such that the maximum value allowed is 25.

Proximity to 50+ Residences	Point Value
50 or more within 2 mile radius	25
50 or more within 4 mile radius	17
50 or more within 6 mile radius	9

IV. Proximity to Hospitals and/or Nursing Homes. If a hospital and/or nursing home is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 25.

Proximity to Hospital and/or Nursing Home	Point Value
Hospital and/or nursing home within 2 mile radius	25
Hospital and/or nursing home within 4 mile radius	17
Hospital and/or nursing home within 6 mile radius	9

V. Proximity to Major Highways. If a major highway is located within the radius described below then the corresponding value is assigned. Only one category may be chosen such that the maximum value is 20.

Proximity to Major Highway	Point Value
Major highway within $\frac{1}{4}$ mile radius	20
Major highway within $\frac{1}{2}$ mile radius	10

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Secretary

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