Administrative Procedures Act Rules

Title 11: Mississippi Department of Environmental Quality

Part 4: Nonhazardous Solid Waste Management Regulations

Part 4, Chapter 1 Mississippi Commission on Environmental Quality Regulation Regarding Nonhazardous Solid Waste Management Regulations

TABLE OF CONTENTS

Rule 1.1 General Information Requirements

Rule 1.2 Permit Procedures

Rule 1.3 Siting Criteria

Rule 1.4 Landfill Requirements

Rule 1.5 Transfer Station, Storage, Collection, & Transportation Requirements

Rule 1.6 Rubbish Site Requirements

Rule 1.7 Processing Facility Requirements

Rule 1.8 Land Application Requirements

Rule 1.9 Composting Facility Requirements

Rule 1.1 General Information Requirements.

A. Purpose, Scope and Applicability

(1) The purpose of these regulations is to establish minimum State criteria under the Mississippi Solid Waste Law, as amended, for all solid waste management facilities. These minimum State criteria ensure the protection of human health and the environment. Statutory authority for these regulations includes Sections 17-17-

27, 17-17-213, 17-17-229, 17-17-231, 21-27-207, and 49-17-17, Mississippi Code Annotated.

(2) Rules 1.2 and 1.3 of these regulations apply to all solid waste management facilities as described therein, unless otherwise specified or excluded in paragraph B. of this rule.

(3) Rule 1.4 of these regulations applies to all landfills as described therein, unless otherwise specified or excluded in paragraph B. of this rule.

(4) Rule 1.5 of these regulations applies to all transfer stations and to the storage and collection of solid wastes, unless otherwise specified or excluded in paragraph B. of this rule.

(5) Rule 1.6 of these regulations applies to all rubbish sites as described therein, unless otherwise specified or excluded in paragraph B. of this rule.

(6) Rule 1.7 of these regulations applies to all processing facilities as described therein, unless otherwise specified or excluded in paragraph B. of this rule.

(7) Rule 1.8 of these regulations applies to all land application sites as described therein, unless otherwise specified or excluded in paragraph B. of this rule.

(8) Rule 1.9 of these regulations applies to all composting facilities as described therein, unless otherwise specified or excluded in paragraph B. of this rule.

(9) Solid waste management facilities failing to satisfy these criteria are considered to be open dumps for purposes of State waste management planning and are prohibited under Section 4005 of RCRA and the Mississippi Solid Waste Disposal Law, where there are criteria applicable to the facilities.

(10) MSWLF units containing sewage sludge and failing to satisfy these criteria violate sections 309 and 405(e) of the Clean Water Act.

(11) Solid waste management facilities which manage or dispose of sewage sludge must comply with 40 CFR 503 – Standards for the Use or Disposal of Sewage Sludge, which are incorporated herein and adopted by reference.

B. Exclusions. Notwithstanding anything in these regulations to the contrary, the management of solid waste is subject to these regulations except as described herein:

(1) Hazardous wastes, which are subject to regulation under Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA), as amended.

(2) Domestic sewage or industrial wastewater that passes through a sewer system or wastewater treatment works and which is subject to regulation under any other

state or federal environmental regulatory program. (Unless paragraph B.5. of this rule is applicable, this exclusion does not apply to sludges and other materials once they are removed from the wastewater treatment works and disposed.)

(3) Solid wastes generated by the growing or harvesting of agricultural crops or the raising of animals (including animal manure), where such wastes are uniformly and promptly returned to the soil as fertilizers or soil conditioners.

(4) Rubbish that is legitimately used, reused, recycled or reclaimed, except for rubbish wastes which is composted or which, due to its chemical or physical constituency, would result in an endangerment to the environment or the public health, safety, or welfare.

(5) Beneficial uses of solid wastes that have been determined by the Department to have physical and chemical qualities that make the wastes suitable for use as a replacement material for other raw materials or products. The Commission may adopt additional guidance or standards to evaluate such wastes for beneficial use.

(6) Beneficial fill projects involving an area occupying less than one acre in size and for a duration of less than 120 days. Beneficial fill projects involving an area larger than one acre or for a duration of more than 120 days may be excluded upon the review and approval of the Permit Board or the Permit Board's designee.

(7) Solid wastes generated in silviculture activities (e.g., timber harvesting slash and land clearing debris) whenever such wastes are left onsite.

(8) Solid wastes processed on the same property on which wastes are generated in a processing facility owned and operated by the generator.

(9) Solid wastes which do not constitute an endangerment to the environment or the public health, safety or welfare and which are disposed of on the same property on which wastes are generated, upon the concurrence of the Permit Board or the Permit Board's designee. In determining whether a solid waste constitutes an endangerment to the environment or the public health, safety or welfare, the Permit Board or the Permit Board's designee shall consider both the quantity and quality of the solid waste, the method of disposal, the location of the disposal property and any other factors which would warrant special concern. Garbage and rubbish containing garbage have been determined by the Commission and by the Department to have characteristics that constitutes an endangerment to the environment, public health, safety, and welfare of the general public within the meaning of Section 17-17-13, Mississippi Code Annotated, and accordingly, are not included in this exemption. All garbage and rubbish containing garbage regardless of where it is disposed or who the generator is, shall be managed in accordance with these regulations and other laws, rules, and regulations pertaining to the management of garbage and rubbish containing garbage.

(10) Solid wastes contained within mining overburden that is returned to the mine site.

(11) Wastes subject to regulation under Part C of the Federal Safe Drinking Water Act (Underground injection wells).

(12) Wastes associated with the exploration or production of crude oil or natural gas, except where those wastes are disposed or processed in a commercial oil field exploration and production waste disposal facility.

C. Definitions. Unless otherwise noted, all terms contained in this regulation are defined by their plain meaning. This section contains definitions for terms that appear throughout this regulation. Additional definitions appear in the specific sections to which they apply.

(1) "Active life" means the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities in accordance with these regulations.

(2) "Active portion" means that part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with these regulations.

(3) "Airport" means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(4) "Aquifer" means a geological formation, group of formations, or portion of a formation capable of yielding significant quantities of groundwater to wells or springs.

(5) "Areas susceptible to mass movement" means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the landfill, because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluction, block sliding, and rock fall.

(6) "Backyard composting or vermicomposting" means the composting of organic solid waste, such as yard waste and household garbage, generated by a homeowner or tenant of a single or multi-family residential unit, where such composting occurs at the site of the residence.

(7) “Beneficial Fill” means the use of uncontaminated, non-water soluble, non-decomposable class II rubbish wastes to level an area or bring the area to a grade for beneficial purposes, where an earthen cover is applied upon completion of the fill. Such beneficial purposes must not be conducted for monetary compensation and may include landscaping, erosion control or repair, land stabilization, construction base preparations or other land improvements.

(8) “Beneficial Use” means the legitimate use of a solid waste in the manufacture of a product or as a product for construction, soil amendment, or other purposes, where the solid waste replaces a natural or other resource material by its utilization.

(9) "Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(10) "Cation Exchange Capacity" means the sum of exchangeable cations a soil can absorb expressed in milliequivalents per 100 grams of soil as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous or saline soils.

(11) "Certificate of Coverage" means a written grant of coverage under an existing general permit.

(12) "Church" means a permanent structure with a permanent foundation and constructed roof, floors, and walls, the primary use of which is for a group of persons to meet at least weekly for religious services.

(13) "Class I Rubbish Site" means a rubbish site, which receives the types of rubbish described in Rule 6.B of these regulations.

(14) "Class II Rubbish Site" means a rubbish site, which receives only the type of rubbish described in Rule 6.C of these regulations.

(15) "Coastal wetlands" means such areas as defined by and subject to the Coastal Wetlands Protection Act.

(16) "Commercial nonhazardous solid waste management facility" means any facility engaged in the storage, treatment, processing or disposal of nonhazardous solid waste for compensation or which accepts nonhazardous solid waste from more than one (1) generator not owned by the facility owner.

(17) "Commercial oil field exploration and production waste disposal" means storage, treatment, recovery, processing, disposal or acceptance of oil field exploration and production waste from more than one (1) generator or for a fee.

(18) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(19) "Commercial waste incinerator" means an incinerator which burns solid waste received from more than one generator or for compensation, but excluding those which burn only wood or paper waste.

(20) "Commission" means the Mississippi Commission on Environmental Quality.

(21) "Composite liner" means a system consisting of two components; the upper component must consist of a minimum 30-mil flexible membrane liner (FML), and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. FML components consisting of High Density Polyethylene (HDPE) shall be at least 60-mil thick. The FML component must be installed in direct and uniform contact with the compacted soil component.

(22) "Compost" means the resulting product from a composting facility after having undergone biological decomposition, less residuals or recyclables, and which has been stabilized to a degree that it is potentially beneficial to plant growth and which is used or sold for use as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses.

(23) "Composting facility" means a facility which produces compost, excluding backyard composting or vermicomposting, or normal farming operations.

(24) "Composting or compost plant" means an officially controlled method or operation whereby putrescible solid wastes are broken down through microbic action to a material offering no hazard or nuisance factors to public health or well-being.

(25) “Cumulative pollutant loading rate” means the maximum amount of an inorganic pollutant that can be applied to an area of land.

(26) "Curing" means the final stage of the composting process beginning in the later part of the mesophilic stage. During the curing process oxygen demand is reduced as the pile is recolonized by soil-dwelling micro-organisms. Once cured, the compost will not generate odors.

(27) "Department" means the Mississippi Department of Environmental Quality.

(28) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwater.

(29) "Disease vectors" means any rodents, birds, flies, mosquitoes, or other animals, including insects, capable of transmitting disease to humans.

(30) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(31) "Dumpster" means a specially constructed, removable waste container of any size designed to be mechanically picked up, dumped, and/or transported by a specially constructed vehicle designed for that purpose. (Commonly referred to as roll-off containers, green boxes, or commercial containers.)

(32) "Endangered or threatened species" means any species listed as such pursuant to the Federal Endangered Species Act of 1973, as amended, or as defined by Section 49-5-105, Mississippi Code Annotated.

(33) "Executive Director" means the Executive Director of the Mississippi Department of Environmental Quality.

(34) "Existing facility" means a facility that has obtained a valid permit or other authorization from the Department before the effective date of the rules applicable to the facility, excluding those which have closed and are no longer authorized to receive solid waste.

(35) "Existing MSWLF unit" means any municipal solid waste landfill unit that is receiving solid waste as of the effective date of these regulations. Waste placement in existing units must be consistent with past operating practices or modified practices to ensure good management.

(36) "Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the management of solid waste.

(37) "Fault" means a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

(38) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands that are inundated by the 100-year flood.

(39) "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, including wastes from markets, storage facilities, handling and sale of produce and other food products, and excepting such materials that may be serviced by garbage grinders and handled as household sewage.

(40) "Gas condensate" means the liquid generated as a result of gas recovery process(es) at an MSWLF unit.

(41) "General Permit" means a permit, which applies to a specified category of similar facilities or activities that involve similar solid wastes or have similar operating and/or monitoring requirements and restrictions.

(42) "Groundwater" means water below the land surface in a zone of saturation.

(43) "Hazardous wastes" means any waste or combination of waste of a solid, liquid, contained gaseous, or semisolid form which because of its quantity, concentration or physical, chemical or infectious characteristics, may

(a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed which are listed by the Environmental Protection Agency as hazardous wastes which exceed the threshold limits set forth in the Environmental Protection Agency regulations for classifying hazardous waste.

Such wastes include, but are not limited to, those wastes which are toxic, corrosive, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat or other means. Such wastes do not include those radioactive materials regulated pursuant to the Mississippi Radiation Protection Law of 1976, appearing in Section 45-14-1 et seq..

(44) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch to the present.

(45) "Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

(46) "Incinerator" means a combustion device specifically designed for the destruction by high temperature burning of solid, semi-solid, liquid, or gaseous combustible waste and from which the solid residues contain little or no combustibles.

(47) "Individual Permit" means a permit, which applies only to a specific facility or location.

(48) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic

chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(49) "Karst terrains" means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrains include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

(50) "Lake or reservoir" means a body of water, not owned by the applicant or facility owner, having greater than ten acres of surface area at such time as the spillway overflows, with a primary purpose other than wastewater storage or treatment.

(51) “Land Application” means the incorporation of waste into the soil, the injection of waste below the land surface or other application of waste to the land for soil amendment or conditioning purposes or for biodegradation of the waste.

(52) "Land application site" means a site upon which land application activities are conducted.

(53) "Landfill" means a controlled area of land upon which solid wastes are deposited, compacted, and covered with no on-site burning of wastes, and which is so located, contoured, drained and operated so that it will not cause an adverse effect on public health or the environment. This term includes MSWLF units and other landfills, but not sites which receive only rubbish.

(54) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing solid waste management facility. In the context of an MSWLF unit, this term includes previously permitted areas where such areas have not received wastes. In the context of other facilities, this term does not include previously permitted areas where such areas have not received waste.

(55) "Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

(56) "Liquid waste" means any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW-846).

(57) "Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock

that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth's surface.

(58) "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25°C and atmospheric pressure.

(59) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

(60) "Mesophilic stage" means the biological stage in the composting process characterized by active bacteria which favor a moderate temperature range of 20° to 45°C (68° to 113°F). It occurs later in the composting process after the thermophilic stage and is associated with a moderate rate of decomposition.

(61) “Mining Overburden” means all earth and other natural materials which are removed to gain access to the desired minerals in the process of surface mining and shall mean such material before or after its removal by surface mining.

(62) "Municipal solid waste" means any nonhazardous solid waste resulting from the operation of residential, commercial, governmental, industrial or institutional establishments except oil field exploration and production wastes and sewage sludge.

(63) "Municipal solid waste management facility" means any land, building, plant, system, motor vehicles, equipment or other property, whether real, personal or mixed, or any combination of either thereof, used or useful or capable of future use in the collection, storage, treatment, utilization recycling, processing, transporting or disposal of municipal solid waste, including transfer stations, incinerators, sanitary landfill facilities or other facilities necessary or desirable.

(64) "Municipal solid waste landfill unit (MSWLF unit)" means a discrete area of land or an excavation that receives household waste (including ash from a municipal solid waste combustion facility) and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR Part 257.2. A MSWLF unit may also receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion.

(65) "New facility" means a facility that has not received waste and which has not applied for or received a valid permit or other authorization from the Department to receive waste prior to the effective date of the rule applicable to the facility, including any land area of an existing facility that has not been previously permitted.

(66) "New landfill" means a landfill that has not received waste and which has not applied for or received a valid permit or other authorization from the Department to receive waste prior to the effective date of the rule applicable to the landfill, including any land area of an existing landfill that has not been previously permitted.

(67) "New MSWLF unit" means any municipal solid waste landfill unit that has not received waste prior to the effective date of the rule applicable to the unit.

(68) "Normal Farming Operations" means the customary and generally accepted activities, practices, and procedures that farmers adopt or utilize on their own property for their own use during the production and preparation for market of poultry, livestock and associated farm products, and in the production and harvesting of crops, including agronomic, horticultural and silvicultural crops.

(69) "Open burning" means the combustion of solid waste without the following:

(a) control of combustion air to maintain adequate temperature for efficient combustion,

(b) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

(c) control of the emission of the combustion products.

(70) "100-year flood" means a flood that has a 1-percent or greater chance of recurring in any given year or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

(71) "Outdoor facility" means a facility in which any solid waste management activity, including storage, is not adequately enclosed within a walled and roofed structure.

(72) "Owner" means the person(s) who owns a facility or part of a facility and is responsible for the overall operation.

(73) “Pathogens” means disease-causing organisms, including but not limited to certain bacteria, protozoa, viruses and viable helminth ova.

(74) "Permit" means the formal written approval issued by the Mississippi Environmental Quality Permit Board to operate a solid waste management

facility. A permit may be an individual permit, issued to a person, or a general permit, issued for a specified category of similar facilities or activities that involve similar solid wastes or have similar operating and/or monitoring requirements and restrictions.

(75) "Permit Board" means the Mississippi Environmental Quality Permit Board, as established under Section 49-17-28, Mississippi Code Annotated.

(76) "Permit Board's designee" means the Executive Director or a member of the Department staff.

(77) "Person" means any individual, trust, firm, joint-stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, Commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof.

(78) "Plant Available Nitrogen" means the amount of nitrogen available for plant uptake. It consists of all of the nitrate and ammonia present in the soil and a fraction of the organic nitrogen present which can be expected to be converted to an inorganic form during a given year.

(79) "Polychlorinated biphenyls (PCBs)" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances, which contains such substances.

(80) "Polychlorinated biphenyl (PCB) waste(s)" means those PCBs and PCB items that are subject to the disposal requirements of Subpart D of 40 CFR Part 761.

(81) "Poor foundation conditions" means those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a landfill.

(82) "Processing facility" means a facility, other than a composting facility or transfer station used to sort, shred, grind, bale, treat or otherwise process solid waste. The term does not include facilities which receive and manage only recyclable components of solid wastes that are removed at least annually.

(83) "Public water supply well" means a water supply well, which is regulated by the Safe Drinking Water Act of 1974, the Mississippi Drinking Water Law of 1976, or regulations promulgated thereunder.

(84) "Putrescible wastes" means solid wastes which are capable of being decomposed by micro-organisms with sufficient rapidity to cause nuisances from odors or gases.

(85) "Qualified groundwater scientist" means a scientist, geologist or engineer, who has received a baccalaureate or post-graduate degree in the natural sciences, geology or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by State registration, professional Certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective-action.

(86) "Recyclables" means materials which are intended to be sold or delivered to the open market for recycling or processing into a marketable product.

(87) "Regulated hazardous waste" means a solid waste that is a hazardous waste, as defined in 40 CFR Part 261.3, that is not excluded from regulation as a hazardous waste under 40 CFR Part 261.4(b) or was not generated by a conditionally exempt small quantity generator as defined in 40 CFR Part 261.5.

(88) "Residuals" means material removed from a processing or composting facility which cannot be processed or composted.

(89) "Rubbish" means nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves and similar material. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like material which will not burn at ordinary incinerator temperatures (not less than 1600 degrees F.).

(90) "Rubbish site" means a site, which receives rubbish for the purpose of disposal.

(91) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

(92) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

(93) "Saturated zone" means that part of the earth's crust in which all voids are filled with water.

(94) "Scavenging" means the uncontrolled and unauthorized removal of materials at any point in the solid waste management system.

(95) "Seismic impact zone" means an area with a ten percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a fraction of the earth's gravitational pull (g), will exceed 0.10g in 250 years.

(96) "7Q10 flow" means the average streamflow rate over seven (7) consecutive days that may be expected to be reached as an annual minimum no more frequently than one (1) year in ten (10).

(97) "Sewage Sludge" means the solid, semi-solid or liquid residue generated during treatment of municipal wastewater in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

(98) "Single family dwelling unit" means either

(a) a conventional single family detached dwelling or mobile home, or

(b) a unit within a multi-family residential complex (townhouses, condominiums, or apartments).

(99) "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

(100) "Solid waste" means any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(101) "Solid waste management facility" means any facility which manages nonhazardous solid waste, including landfills, rubbish sites, land application sites, processing facilities, composting facilities, transfer stations, and waste incinerators, but excluding ordinary storage vessels such as trash cans, dumpsters, etc.

(102) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.

(103) "Stream or river" means a flowing body of water with a 7Q10 flow greater than zero.

(104) "Structural components" means liners, leachate collection systems, final covers, run-on/run-off systems, and any other component used in the construction and operation of the MSWLF that is necessary for protection of human health and the environment.

(105) "Thermophilic stage" means the biological stage in the composting process characterized by active bacteria which favor a high temperature range of 45° to 75°C (113° to 167°F). It occurs early in the composting process before the mesophilic stage and is associated with a high rate of decomposition.

(106) "Transport" means the movement of wastes from the point of generation to any intermediate points, and finally to the point of ultimate storage or disposal.

(107) "Transfer station" means a fixed facility used for the primary purpose of transferring solid waste from one solid waste transportation vehicle to another. Dumpsters or other comparable solid waste containers loaded and unloaded onto a transportation vehicle are not included in this definition.

(108) "Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and Karst terrains.

(109) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as, lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(110) "Vermicomposting" means a composting process that utilizes worms in the biological decomposition of waste.

(111) "Washout" means the carrying away of solid waste by waters of the base flood.

(112) "Waste management unit boundary" means a vertical surface located at the hydraulically downgradient limit of the unit. This vertical surface extends down into the uppermost aquifer.

(113) "Wetlands" means those areas that are defined in 40 CFR 232.2. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

(114) "Yard Waste" means the leaves, grass cuttings, weeds, garden waste, tree limbs, and other vegetative wastes generated at residential, commercial, institutional, governmental, or industrial properties.

D. Effective Date

The effective date of these regulations is October 1, 1993, except where Part 258 of Title 40 of the Code of Federal Regulations allows for a later date for MSWLF units and except where amendments to these regulations are effective at a later date. The effective date of the amendments adopted by the Commission on February 22, 1996, is April 3, 1996. The effective date of the amendments adopted by the Commission on April 28, 2005 is June 17, 2005.

E. Severability

If any provision, section, subsection, sentence, clause or phrase of any of these regulations, or the application of same to any person or set of circumstances is for any reason challenged or held to be invalid or void, the validity of the remaining regulations and/or portions thereof or their application to other persons or sets of circumstances shall not be affected thereby.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 21-27-201, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 1.2 Permit Procedures.

A. No solid waste management facility shall be operated without an individual permit from the Permit Board or a certificate of coverage under a general permit.

B. The Permit Board may issue a general permit for a specified category or group of facilities that involve similar wastes or have similar operating requirements and restrictions.

C. No new solid waste management facility nor any lateral expansion of an existing facility beyond the area previously approved shall be granted either an individual permit from the Permit Board or a certificate of coverage under a general permit, unless such facility is consistent with the approved local solid waste management plan for the area in which the facility is located. Solid waste management facilities existing prior to the date of Commission approval of the applicable local plan are considered to be consistent with such local plans, even if there is no recognition of such facilities in the plan. However, any lateral expansion of such existing facilities which has not been approved by the Permit Board prior to the date of Commission approval of the plan must be expressly recognized in the plan in order to be considered consistent with the plan.

D. An application for issuance, re-issuance or transfer of an individual permit or a certificate of coverage under a general permit shall be made on forms provided by the Department. In addition to the information required in the application form, the Department may require other information as necessary to evaluate the proposed facility.

E. Applicant Disclosure Statement Requirements

(1) Applicants for the issuance, re-issuance or transfer of an individual permit shall also file with the Permit Board or the Permit Board's designee a disclosure statement in accordance with Section 17-17-501 through 17-17-507, Mississippi Code Annotated, and the regulations promulgated pursuant thereto.

(2) Applicants for the issuance, re-issuance or transfer of a certificate of coverage under a general permit shall also file with the Permit Board or the Permit Board's designee a disclosure statement in accordance with Section 17-17-501 through 507, Mississippi Code Annotated, and the regulations promulgated pursuant thereto.

(3) For the purposes of Paragraphs E.1 and E.2 of this rule, the term "applicants" means any persons, except public agencies, applying for a permit or a certificate of coverage to operate and/or construct a commercial nonhazardous solid waste management facility.

(4) If the owner (except a public agency) of a commercial nonhazardous solid waste management facility contracts with any person other than a public agency to operate the facility, the owner shall not allow the contractor to begin operation until disclosure statements with regard to the owner and the contractor have been submitted to and approved by the Permit Board or the Permit Board's designee in accordance with Section 17-17-501, Mississippi Code Annotated and the regulations promulgated pursuant thereto. If a public agency applies for a permit and proposes to operate a facility by contract, the contractor shall be required to file a disclosure statement.

F. Notwithstanding the authority and the requirements of Section 17-17-501 through 17-17-507, Mississippi Code Annotated, the Permit Board or the Permit Board's designee may require a reasonable amount of information concerning the financial capability and/or the performance history of an applicant and may use the information in determining whether an individual permit or a certificate of coverage under a general permit should or should not be granted.

G. An application for the issuance, re-issuance, modification or transfer of any solid waste management permit or certificate of coverage and all reports required by the solid waste management permit or other information requested by the Permit Board shall be signed as follows:

(1) For a corporation: a president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, county, state, federal, or other public agency; either a principal executive officer or ranking elected official;

(4) The signature of a Duly Authorized Representative (DAR) shall be a valid signature under these Regulations, in lieu of the signatures described above provided the following conditions are met;

(a) The DAR is an employee of the entity seeking the solid waste-management permit or certificate of coverage.

(b) The DAR is identified to the Department by the ranking officer of the corporation, partnership, proprietorship, municipality, county, state, federal or other public agency.

(c) The DAR is responsible for the overall management of the solid waste facility.

H. When the Department is satisfied that an application for an individual permit is complete, or that a proposed general permit has been completed it shall develop a proposed recommendation as follows:

(1) If the proposed recommendation is to issue the individual or general permit, the Department shall, at a minimum, prepare a public notice and allow the general public a period of at least 30 days to provide comment regarding the application or to request a public hearing in accordance with Section 49-17-29(4)(a), Mississippi Code Annotated 1972. A public notice may be waived by the Department for modifications to existing facilities which do not involve an expansion of the facility or a significant change in the method of waste management. The Department may conduct a public hearing for proposals when a significant level of public interest exists in the project area or where warranted by other factors.

(2) If the proposal applies to the issuance of a general permit or an individual permit for an MSWLF unit, or the modification pertaining to the expansion of an MSWLF unit beyond the permitted capacity or area of an individual permit or a general permit, or the transfer of an individual permit for an MSWLF unit, a public hearing shall be conducted.

(3) The Permit Board may conduct a single public hearing on related groups of draft individual or general permits.

(4) Following a public notice and any public hearing which may be conducted, the Permit Board or the Permit Board's designee shall make a decision regarding the issuance of the permit.

I. When the Department determines that an application for coverage under a general permit is complete, the Permit Board or the Permit Board's designee shall make a decision regarding the issuance of the Certificate of Coverage.

J. Any interested party aggrieved by any action of the Permit Board or the Permit Board's designee with regard to permit or certificate of coverage issuance, denial, modification or revocation may file a written request for a formal hearing in accordance with Section 49-17-29(4)(b), Mississippi Code Annotated.

K. A permit shall not be issued for more than ten (10) years. Any existing permit which does not have an expiration date shall be re-evaluated and may be reissued for a period not to exceed ten (10) years after the date of reissuance. Such re-evaluation shall be limited to an evaluation of:

(1) The terms and conditions of the permit to determine consistency with current requirements of the Department,

(2) The operating history of the permittee at the permitted facility, and

(3) The permittee's ability to comply with Rule 1.3 of these regulations (Siting Criteria).

Permits are subject to modification, revocation, and/or reissuance for good cause at any time during the life of the permit.

L. A transfer of an individual permit or a certificate of coverage under a general permit from one person to another shall be made prior to any sale, conveyance, or assignment of the rights in the permit held by the permittee. Any change of more than 50 percent of the equity ownership of the facility or permittee over a sustained period resulting in a new majority owner shall constitute a transfer. A new majority owner for purposes of this provision shall be an individual, partnership, company, or group of affiliated companies. A transfer, as described in this paragraph, must be approved by the Permit Board. All transfers approved by the Permit Board shall be made contingent upon the final sale, conveyance, or assignment of rights in the permit being completed within one year of Permit Board action, and shall be effective on the date of final sale, conveyance, or assignment of rights in the permit.

M. It is the responsibility of the permittee to possess or acquire a sufficient interest in or right to the use of the property for which a permit or certificate of coverage is issued, including the access route. The granting of a permit or a certificate of coverage does not convey any property rights or interest in either real or personal property; nor does it authorize any injury to private property, invasion of personal rights, or impairment of previous contract rights; nor any infringement of federal, state, or local laws or regulations outside the scope of the authority under which a permit or certificate of coverage is issued.

N. Storage, processing, disposal or other placement of waste shall be limited to the area described in the application form required in paragraph D. of this rule, unless an amended application is submitted to the Department and approved.

O. When a disaster occurs, such as a tornado, hurricane, or flood, and results in urgent need for public solid waste disposal or processing facilities, the Department may approve a site or facility for immediate operation subject to stipulated conditions and for a limited period of time.

Source: *Miss. Code Ann. §§ 17-17-1, et seq., 17-17-201, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., and 49-17-1, et seq.*

Rule 1.3 Siting Criteria.

A. Applicability

(1) Except as specifically excluded, the requirements of this rule shall apply to all solid waste management facilities including landfills, rubbish sites, processing facilities, land application sites, composting facilities, waste incinerators, and transfer stations, as specified in this regulation.

(2) The requirements of paragraphs B, L, and X do not apply to:

(a) composting facilities which receive less than 5 tons per day of only natural vegetation, such as yard waste, tree limbs, etc.

(b) rubbish sites, processing facilities, and transfer stations, any of which receive only Class II rubbish materials (as described in Rule 1.6.C of these regulations).

(3) The requirements of paragraphs P through U and paragraphs W through Y of this rule do not apply to solid waste management facilities which dispose only of industrial solid waste, where such facilities are located on the same industrial property on which the wastes are generated, unless the Permit Board, or where appropriate, the Permit Board's designee determines that such criteria should be applicable (such as property line setbacks).

(4) The distances specified in this section shall be measured from the edge of the active disposal, processing, composting, transfer or storage area.

(5) Any structure or area described in paragraph I, J, P, R, S, U and X of this rule (e.g., a park, dwelling, etc.) shall not be considered applicable in the siting of a new solid waste management facility if the structure or area was designated by the applicable governmental body or was established after the site disclosure date. The site disclosure date shall be the date upon which an application for a permit or other authorization is submitted to the Department, unless the applicant chooses to notify the Department and the public at an earlier date, in which case the site disclosure date shall be the completion of such notification as follows:

(a) the submittal of a notice to the Department containing the following information:

(1) the name, address, telephone number, and contact person of the applicant;

(2) a description of the type of proposed operation (i.e., landfill, land application site, etc.);

(3) an exact location and approximate size of the proposed facility; and

(4) where the applicant is a public agency, such as a county, municipality, or a regional authority, a copy of a duly adopted resolution stating the desire of the applicant to pursue a permit or other authorization for the operation of a solid waste management facility at the site described in paragraph A.5.a.(3) of this rule; and

(b) public notification of the information listed in paragraph A.5.a. of this rule shall consist of a prominent notice in at least one daily or weekly newspaper of general circulation within the area of the proposed facility. The notice shall be no less than four inches by seven inches in size and shall not be placed in that portion where legal notices and classified advertisements appear.

(c) if notification is accomplished as described in paragraph A.5.a. and A.5.b. of this rule, an application for a permit or other authorization must be submitted no later than one year after completion of notification for this exclusion to apply.

(6) For new facilities that are adjacent to and part of an existing facility, the Permit Board, or where appropriate, the Permit Board's designee may, on a site specific basis, designate a smaller setback distance to any structure or area described in paragraphs I, J, P, R, S, U and X of this rule (e.g., a park, dwelling, etc.) if the following are met:

(a) before April 1, 1991, the applicant obtained ownership or control of the property upon which the new facility is proposed, through an option to purchase or similar instruments vesting rights in the real property;

(b) the applicant has demonstrated that a smaller setback distance would not present an unreasonable risk to the environment and to the health, safety, and welfare of the public; and

(c) the facility is consistent with the approved local solid waste management plan.

The provisions of this paragraph shall be applicable only in cases where paragraph A.5 of this rule does not apply.

B. Airport Safety

(1) Owners of existing landfills and lateral expansions, outdoor processing facilities, and outdoor composting facilities which (1) accept waste on or after the effective date of these regulations, (2) accept waste likely to attract birds, and (3) are located within 10,000 feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used only by piston-type aircraft, must demonstrate to the Department that the facility is designed and operated so that it does not pose a bird hazard to aircraft.

(2) No new landfill, new outdoor processing facility, or new outdoor composting facility, which will accept waste likely to attract birds, shall be located within 10,000 feet of any airport runway end unless the state aeronautical agency states that the airport does not routinely serve turbojet aircraft.

(3) No new landfill, new outdoor processing facility, or new outdoor composting facility, or lateral expansion of any such existing facilities, which will accept waste likely to attract birds, shall be located less than 5,000 feet from an airport runway end.

(4) The restrictions described in paragraph B.2 and B.3 of this rule are not applicable if the owner can demonstrate in writing the following:

(a) the facility will be designed and operated so that it does not pose a bird hazard to aircraft, and

(b) the airport is not being routinely utilized for scheduled commercial passenger services.

(5) Any person proposing to locate a new MSWLF or implement a lateral expansion within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft must notify the affected airport and the Federal Aviation Administration (FAA).

(6) Any person proposing to locate a new MSWLF within 6 miles of a public airport as described in 49 U.S.C. § 44718(d) as amended in Section 503 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Pub. L. No. 106-181 (April 5, 2000) "Structures interfering with air commerce" must demonstrate compliance with the site limitations of said Act.

(7) The specific requirements of this rule are not applicable to airports such as agricultural runways or other airstrips not open to the public. However, the

Permit Board may establish a buffer zone between any such airstrip and a new landfill as deemed necessary.

C. Floodplains

Owners of new solid waste management facilities and lateral expansions, and owners of existing landfills and land application sites that accept waste on or after the effective date of these regulations, which are located within the 100-year floodplain, must demonstrate to the Department in writing that the facility will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health or the environment.

D. Wetlands

(1) New solid waste management facilities and lateral expansions shall not be located in wetlands, unless the applicant obtains approval as required by federal law from the U.S. Army Corps of Engineers or from the U.S. Department of Agriculture, Natural Resource Conservation Commission, where agricultural lands are involved.

(2) New solid waste management facilities and lateral expansions shall not be located in coastal wetlands unless the applicant obtains approval as required by state law from the Bureau of Marine Resources of the Mississippi Department of Wildlife, Fisheries, and Parks.

(3) The owner must demonstrate compliance with paragraphs D.1 and D.2 of this rule by placing a copy of the permit in the operating record and must notify the Department in writing that it has been placed in the operating record.

E. Fault Areas

MSWLF units and lateral expansions of any existing MSWLF units shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the applicant demonstrates to the Department that an alternative setback distance of less than 200 feet (60 meters) will not result in damage to the structural integrity of the landfill and will be protective of human health and the environment.

F. Seismic Impact Zones

MSWLF units and lateral expansions of any existing MSWLF units shall not be located in seismic impact zones, unless the applicant demonstrates to the Department that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

G. Unstable Areas

Owners of new MSWLF units, existing MSWLF units, lateral expansions of existing MSWLF units and new rubbish sites, which are located in an unstable area, must demonstrate to the Department that engineering measures have been incorporated into the landfill or rubbish site design to ensure that the integrity of the structural components of the facility will not be disrupted. The owner must consider the following factors, at a minimum, when determining whether an area is unstable:

(1) on-site or local soil conditions that may result in significant differential settling;

(2) on-site or local geologic or geomorphologic features; and

(3) on-site or local human-made features or events (both surface and subsurface).

H. Hydrocarbon Wells and Water Wells

No new landfill, new rubbish site, new land application site, or lateral expansion of any such existing facilities, shall be located such that an active or inactive hydrocarbon well or an active or inactive water well would be present beneath the actual disposal area, unless the applicant demonstrates, to the satisfaction of the Department, that the well has been adequately plugged.

I. Public Water Supplies

(1) No new landfill or new land application site shall be located within 0.5 mile of a public water supply intake structure in a surface water body. If the runoff from the facility would enter the water body upgradient of the intake structure, this distance shall be increased to at least ten (10) miles. The Permit Board, or where appropriate, the Permit Board's designee may establish a greater distance based upon the nature of the surface water supply.

(2) No new landfill or new land application site shall be located within 1000 feet of any existing public water supply well. This distance shall be increased to 0.5 mile if the proposed facility is hydraulically upgradient of any existing public water supply well.

(3) Any new landfill or land application site proposed for location within a designated local wellhead protection area must comply with any duly adopted ordinances or regulations established pursuant to an approved Wellhead Protection Program.

J. Surface Water

(1) No new landfill or new land application site shall be located within 0.5 mile of the banks of any section of a river, stream, lake or reservoir, or coastal water classified by the Commission as recreational or shellfish harvesting.

(2) No new landfill, new land application site, new outdoor processing facility, or new outdoor composting facility shall be located within 250 feet of the banks of any river, stream, lake or reservoir, or coastal water.

(3) No new outdoor solid waste management facility shall be located within 100 feet of the banks of any river, stream, lake or reservoir, or coastal water.

K. Surface Water Drainage Areas

No new solid waste management facility shall be located in an area which may result in recurring washout of waste, such as in a surface water drainage channel.

L. Natural Geology

(1) New landfills shall be located where there are adequate naturally occurring geological materials present of low permeability to act as a buffer between the base of the landfill liner and the top of the uppermost aquifer. Such materials shall generally consist of clays, silty clays, clayey silts, or other soils which have an average hydraulic conductivity of 1×10^{-6} cm/sec or less. The thickness, or depth, of these materials shall extend to at least five feet immediately beneath the base of the landfill liner.

(2) Existing landfills which accepted waste on or after the effective date shall be located in an area as described in paragraph L.1. of this rule unless:

(a) all unused disposal areas of the landfill as of the effective date of these regulations which will receive waste on or after that date, are constructed with a liner according to state requirements; and

(b) the naturally occurring geological materials present below the disposal area generally consist of clays, silty clays, clayey silts, or other soils which are of low permeability.

(3) New rubbish sites, new composting facilities subject to Rule 1.9.C of these regulations, any such existing rubbish sites and composting facilities receiving waste on or after April 9, 1994, shall be located in a site in which the top of the uppermost aquifer is at least five feet below the base of the liner. The liner shall consist of either of the following:

(a) adequate naturally occurring geological materials present immediately below the disposal or composting area and on all sidewalls. Such materials shall generally consist of clays, silty clays, clayey silts, or other soils, which are of low permeability. The thickness, or depth, of these materials should extend to at least five feet below the disposal or composting area, and for sites having sidewalls, at least three feet laterally; or

(b) a constructed or alternate liner, as approved by the Department.

M. Air Quality. No new solid waste incinerator shall be sited in an area which conflicts with state law and/or regulations.

N. Endangered or Threatened Species. No new solid waste management facility shall be located within an area which may affect:

(1) a federally listed endangered or threatened species, unless in compliance with all statutes, rules, and regulations within the jurisdiction of the U.S. Fish and Wildlife Service, or

(2) a state listed endangered or threatened species, unless in compliance with all statutes, rules, and regulations within the jurisdiction of the Mississippi Department of Wildlife, Fisheries, and Parks.

O. Historical and Archaeological Areas. No new solid waste management facility shall be located in such a manner as to significantly and adversely impact the cultural resources listed in, or eligible for listing in, the National Register of Historic Places, unless such impact to those cultural resources may be appropriately mitigated.

P. Parks and Recreational Areas

(1) No new landfill, new rubbish site, new outdoor processing facility, new outdoor composting facility, new land application site receiving putrescible waste or new commercial waste incinerator shall be located within 0.5 mile of any of the following areas, without the specific written consent of the person responsible for managing such area:

(a) a national, state, county, or city designated park; or

(b) an outdoor recreational area, such as a golf course or swimming pool, owned by a city, county, or other public agency.

(2) A greater setback distance may be established by the Permit Board, or where appropriate, the Permit Board's designee on a site specific basis.

Q. Forests, Wilderness Areas, Wildlife Management Areas, and Natural Areas

(1) No new landfill, new rubbish site, new outdoor processing facility, new outdoor composting facility, new land application site receiving putrescible waste, or new commercial waste incinerator shall be located within any of the following areas, without the specific written consent of the person responsible for managing such area:

(a) national forest land, national wilderness area, and national wildlife refuge areas, as designated by the appropriate federal agency; or

(b) state wildlife management areas, state game management areas, and state natural areas, as designated by the Mississippi Department of Wildlife, Fisheries and Parks.

(2) A setback distance may be established by the Permit Board, or where appropriate, the Permit Board's designee on a site specific basis.

R. Structures. No new landfill, new land application site receiving putrescible waste, new outdoor processing facility, or new outdoor composting facility receiving putrescible waste shall be located within 0.5 mile of any licensed school, licensed day-care center, licensed hospital, or licensed nursing home, or within 1000 feet of any church. The Permit Board, or where appropriate, the Permit Board's designee may allow a smaller setback distance if a written agreement is obtained from the owner or appropriate representative stating that a smaller setback is acceptable.

S. Residential Areas

(1) No new landfill or new land application site receiving putrescible waste shall be located within one mile of a residential area, unless the proposed facility would be located in an established industrial park, in which case the facility shall not be located less than 1000 feet from any residential area.

(2) For purposes of this rule, "residential area" means:

(a) a group of 20 or more single family dwelling units on contiguous property and having an average density of two or more units per acre; or

(b) a group of 40 or more single family dwelling units on contiguous property and having an average density of one or more units per acre; or

(c) a subdivision containing at least 20 constructed houses, in which the subdivision plat is recorded in the chancery clerk's office of the appropriate county.

T. Property Line Setbacks (Buffer Zones)

(1) All new solid waste management facilities shall be designed to comply with setback distances between the edge of the actual disposal, processing, composting, transfer or storage area and the property line as follows:

(a) For transfer and processing facilities, except such outdoor facilities, the setback shall be at least 50 feet.

(b) For outdoor transfer stations, outdoor processing facilities, composting facilities, and land application sites, the setback shall be at least 200 feet, except where adequate on-site screening, whether natural or artificial, will restrict the offsite view of the facility, in which case the setback shall be no less than 100 feet.

(c) For rubbish sites the setback shall be at least 200 feet, except where adequate on-site screening, whether natural or artificial, will restrict the offsite view of the facility, in which case the setback shall be no less than 150 feet.

(d) For landfills, the setback shall be at least 500 feet, except where adequate on-site screening, whether natural or artificial, will restrict the offsite view of the landfill, in which case the setback shall be no less than 250 feet.

(2) The Permit Board, or where appropriate, the Permit Board's designee will consider requests for a smaller property setback distance upon the applicant's submittal of sufficient proof that affected property owners within the subject buffer zone have had timely and sufficient notice of the proposed facility. Any comments received as a result of such notice shall be considered prior to action upon any request for a decrease in the buffer zone requirements of paragraph T.1 of this rule.

(3) Existing facilities shall comply with the property setback distances that were approved at the time the site was permitted or authorized.

U. Aesthetics and Visibility. New landfills and new rubbish sites shall be located such that the actual disposal area is at least 1000 feet from the edge of the right-of-way of any interstate or primary highway, as designated by the Mississippi State Highway Commission, except the following:

(1) those which will be screened by natural objects, planting, fences, or other appropriate means so as not to be visible from the main-traveled highway system, or otherwise removed from sight;

(2) those which are located within areas which are zoned for industrial use under authority of law;

(3) those which will be located within unzoned industrial areas, as determined by the Mississippi State Highway Department; or

(4) those which will not be visible from the main-traveled highway system.

V. Local Government Regulations/Solid Waste Management Plans. New solid waste management facilities shall be located such that, on the date an application is submitted

to the Department, the site does not conflict with regulations or ordinances of local governments, and is consistent with the state approved local or regional nonhazardous solid waste management plan.

W. Transportation Factors. Owners of new commercial landfills must demonstrate to the Permit Board that the anticipated additional traffic along the primary route to the facility will not significantly increase the safety risk within a five (5) mile radius of the disposal area of the facility. At a minimum, the demonstration shall address the following factors:

(1) the primary route(s) that the applicant expects will be used for the transportation of waste to the facility within a five (5) mile radius of the disposal area;

(2) an estimate of the number and types of vehicles routinely traveling on the primary route(s) within said five (5) mile radius;

(3) an estimate of the number and types of vehicles expected by the applicant to transport waste to the facility via the primary route(s) within said five (5) mile radius;

(4) an estimate of the loaded weight of each type of vehicle expected to transport waste to the facility via the primary route(s) within the five (5) mile radius; and

(5) proximity to waste generators.

The Permit Board may require such reasonable restrictions and limitation as it deems appropriate regarding the primary transportation route(s) to the facility if it determines that the primary route(s) of transportation to the facility by waste hauling vehicles would significantly increase the safety risks within the five (5) mile radius.

X. Noise Factors. To attenuate for noise, no new landfill or new outdoor processing facility shall be located closer than 1500 feet of a single family dwelling unit, and no new rubbish site, new indoor processing facility, or lateral expansions of any such facilities shall be located closer than 500 feet of a single family dwelling unit unless:

(1) the owner of such dwelling provides written consent to a smaller distance; or

(2) the applicant can demonstrate that the facility will be located, configured, designed, constructed, and operated such that the noise level at the neighboring dwelling, caused by the normal waste management operations of the facility, but not by vehicular movement into or out of the facility, will not exceed an eight-hour time weighted average (TWA) of 65 decibels between the hours of 7 a.m. and 7 p.m., and an eight-hour TWA of 55 decibels between 7 p.m. and 7 a.m.

The Department may require a greater distance, or may require noise abatement measures, if it determines that the noise level at a neighboring dwelling, caused by the normal waste management operations of the facility, but not by vehicular movement into

or out of the facility, will exceed an eight-hour TWA of 65 decibels between the hours of 7 a.m. and 7 p.m., or an eight-hour TWA of 55 decibels between 7 p.m. and 7 a.m.

Y. Existing Facility Demonstrations

(1) By the effective date of these regulations, owners of existing MSWLF units, which accept waste after that date, must demonstrate to the satisfaction of the Department, compliance with or non-applicability of the requirements of paragraphs B., C., G. and L. of this rule. The Department may establish a closure schedule for facilities failing to satisfy this demonstration. In no event shall facilities which fail to satisfy this demonstration remain in operation after October 9, 1996.

(2) By April 9, 1994, owners of all existing land application sites, rubbish sites, processing facilities, composting facilities, and existing landfills other than MSWLF units which accept waste on or after that date, must demonstrate to the satisfaction of the Department, compliance or non-applicability with the requirements of paragraphs B, C, and L of this rule. The Department may establish a closure schedule for facilities failing to meet this demonstration.

Z. Recordkeeping. Documentation of compliance or non-applicability of the requirements of this rule shall be retained by the owner at the facility or at another approved site until otherwise directed by the Department, but in no case shall records be required to be retained longer than 5 years after the completion of any applicable closure and post-closure requirements. Such documentation shall be made available to the Department upon request.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 21-27-201, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 1.4 Landfill Requirements

A. Applicability

(1) The requirements of this rule do not apply to MSWLF units that stopped receiving solid waste before October 9, 1991, or to other landfills that stopped receiving solid waste before the effective date of these regulations.

(2) MSWLF units that received waste after October 9, 1991 but stopped_receiving waste before the effective date of these regulations are exempt from all the requirements of this rule, except for the closure requirements specified in paragraph E.2 of this rule. The owner must complete closure requirements within six months of last receipt of wastes. Owners of MSWLF units that fail to complete closure requirements, as required in this paragraph, will be subject to all the requirements of this rule.

(3) Notwithstanding paragraphs A.1 and A.2 of this rule, the Commission or Permit Board may impose additional requirements on any landfill on a case-by-case basis in order to prevent, abate, control or correct groundwater contamination, public endangerment or as otherwise determined necessary to protect human health, welfare or the environment.

(4) All landfills that received waste on or after the effective date of these regulations, must comply with the requirements of this rule, unless otherwise specified.

B. Operating Requirements

(1) Procedures for Excluding the Receipt of Hazardous Waste and other Unauthorized Wastes

(a) Owners of all MSWLF units must implement a program at the facility for detecting and preventing the disposal of the following wastes:

(1) hazardous waste as defined by and subject to the Mississippi Hazardous Waste Management Regulations and Subtitle C of the Federal Resource Conservation and Recovery Act;

(2) polychlorinated biphenyls (PCB) waste;

(3) liquid wastes as described in Paragraph B.(10) of this rule;

(4) regulated Asbestos Containing Materials (ACM) which have not been properly bagged or contained in such a manner as to prevent the wastes from becoming airborne; and

(5) whole waste tires which have not been shredded, chopped, cut or otherwise processed as described in Rule 4.4.Bof the Mississippi Waste Tire Management Regulations.

(b) At a minimum, the program required in paragraph B.1.a of this rule, must include the following procedures:

(1) The owner must obtain information on any industrial process waste stream, prior to disposal, including the following:

(i) generator's name and address

(ii) transporter's name and address

(iii) name of the waste

(iv) process generating the waste

(v) physical and chemical properties of the waste

(vi) quantity of waste

(vii) certification from the generator that the waste is not a regulated hazardous waste under Subtitle C of the Resource Conservation and Recovery Act and the Mississippi Hazardous Waste Management Regulations.

(2) The owner shall forward the information required above to the Department and shall not accept the industrial process waste if the Department objects to the disposal of such waste at this facility. If the Department does not object to the disposal of such waste within 14 days of receipt of the information required above, the permittee may assume that the Department has no objections. The Department may require the submission of additional information in order to further describe or characterize the waste.

(3) For purposes of this rule, the term "industrial process waste" shall mean any solid waste generated as a result of the manufacture of a product, except uncontaminated packaging materials and containers, uncontaminated machinery components, tires, land clearing or landscaping wastes, office wastes, cafeteria wastes, and construction and demolition wastes.

(4) The owner shall conduct random inspections of incoming loads unless the owner takes other steps to ensure that incoming loads do not contain regulated hazardous wastes or PCB wastes.

(5) The owner shall maintain records of any inspections.

(6) The owner shall insure that all facility personnel are properly trained to recognize regulated hazardous waste and PCB wastes.

(7) The owner shall notify the Department if a regulated hazardous waste or PCB waste is discovered at the facility.

(2) Cover Material Requirements

(a) Except as provided in paragraph B.2.c. of this rule, the owners of all MSWLF units, except ash monofills, must cover disposed solid waste with at least six inches of earthen material at the end of each operating day, or at more frequent intervals if determined to be necessary by the Department to control disease vectors, fires, odors, blowing litter, and scavenging.

(b) Except as provided in paragraph B.2.c. of this rule, the owners of all MSWLF units which receive only ash and owners of all landfills other than MSWLF units must cover disposed solid waste with at least six inches of earthen material at a frequency determined by the Department.

(c) Alternate Cover Materials

(1) Alternative materials of an alternative thickness (other than at least six inches of earthen material) may be approved by the Department, if the owner demonstrates that the alternative material, thickness and/or method of application adequately control disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

(2) The use of alternate cover materials shall generally require the weekly application of a soil cover, unless otherwise determined by the Department.

(3) Disease Vector Control

Populations of disease vectors shall be minimized through proper compaction and covering procedures. Approved pesticides, or use of other techniques appropriate for the protection of human health and the environment, shall be employed for vector control when necessary.

(4) Explosive Gases Control

(a) Owners of all MSWLF units must ensure that:

(1) the concentration of methane gas generated by the facility does not exceed 25 percent of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components); and

(2) the concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary.

(b) Owners of all MSWLF units must implement a routine methane monitoring program to ensure that the standards of paragraph B.4.a. of this rule are met. A plan describing the methane monitoring program should be submitted to the Department for approval. The plan should provide for the following:

(1) The type and frequency of monitoring must be determined based on the following factors:

(i) soil conditions;

(ii) the hydrogeologic conditions surrounding the facility;

(iii) the hydraulic conditions surrounding the facility; and

(iv) the location of facility structures and property boundaries.

(2) The minimum frequency of monitoring shall be quarterly.

(3) Results of all methane monitoring pursuant to paragraph B.4.b. of this rule shall be submitted to the Department no later than sixty (60) days following each monitoring period.

(c) If methane gas levels exceeding the limits specified in paragraph B.4.a. of this rule are detected, the owner must:

(1) immediately take all necessary steps to ensure protection of human health and notify the Department;

(2) within seven days of detection, submit to the Department and place in the operating record the methane gas levels detected and a description of the steps taken to protect human health; and

(3) within 60 days of detection, implement a remediation plan for the methane gas releases. A copy of the plan shall be submitted to the Department for approval and upon approval shall be placed in the operating record. The plan shall describe the nature and extent of the problem and the proposed remedy.

(d) The Department may establish alternative schedules for demonstrating compliance with paragraphs B.4.c.(2) and B.4.c.(3) of this rule.

(5) Air Criteria

(a) Owners of all landfills must ensure that they do not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated by the Administrator pursuant to Section 110 of the Clean Air Act, as amended.

(b) Open burning of solid waste, except for land clearing debris generated on the site of the facility, shall be prohibited. Open burning of land clearing debris shall be conducted in accordance with Rule 1.3.G. of the "Air Emission Regulations for the Prevention, Abatement, and Control of Air

Contaminants." (Title 11, Part 2, Chapter 1). An adequate supply of water under pressure at the site or an adequate stockpile of earth reasonably close to the disposal area shall be provided, or there shall be a nearby, organized Fire Department providing service when called. The Department may approve alternate methods of fire protection or waive this requirement when there is no need for fire protection. Should an accidental fire occur, the operator shall immediately take action to extinguish the fire and shall notify the Department by the close of the Department's next business day.

(6) Waste Placement

(a) Disposal activity shall be restricted to the area defined in the approved application.

(b) For landfills subject to the construction quality assurance (CQA) requirements of Rule 1.4(B)(19):

Prior to construction or preparation of any new disposal cell or area at a landfill, the cell boundaries shall be appropriately located and marked by a land surveyor licensed by the State of Mississippi to ensure construction within the approved area.

(c) For Landfills not subject to the CQA requirements of Rule 1.4(B)(19):

Prior to construction or preparation of any new disposal cell or area, disposal area boundaries shall be located and clearly marked by a land surveyor licensed by the State of Mississippi. Permanent markers shall be erected at the corners of the approved disposal area. The markers shall be a minimum, 3-foot high concrete posts, metal pipes, weather resistant wood posts or other suitable markers approved by the Department. The markers shall be placed in the ground to a sufficient depth to facilitate permanence and shall be maintained by the owner. Markers that become damaged shall be promptly re-established by the owner with the assistance of a licensed land surveyor, where necessary.

(7) Access Requirements. Unloading of solid waste shall be confined to as small an area as practical. Adequate security, including use of artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment and to control access into the facility and to prevent the disposal of unauthorized materials, unauthorized vehicular traffic and illegal dumping of wastes, shall be provided. An attendant shall be on duty during operating hours and during special site utilization to direct unloading of solid waste.

(8) Run-On/Run-Off Control Systems

(a) Owners of all landfills must design, construct, and maintain:

(1) a run-on control system to prevent flow onto the active portion of the landfill during the peak discharge from a 25-year storm;

(2) a run-off control system from the active portion of the landfill to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(b) Run-off from the active portion of the landfill unit must be handled in accordance with paragraph B.9 of this rule.

(9) Surface Water Requirements

(a) Landfills shall not:

(1) cause a discharge of pollutants into waters of the State, including wetlands, that violates any requirements of the Clean Water Act or the Mississippi Air and Water Pollution Control Act, including but not limited to the National Pollutant Discharge Elimination System (NPDES) requirements.

(2) cause the discharge of a non-point source of pollution to waters of the State, including wetlands, that violates any requirement of an area-wide or state-wide water quality management plan that has been approved under Section 208 or 319 of the Clean Water Act, as amended.

(b) Monitoring of surface waters may be required in some instances. Where monitoring of surface waters is required, the frequency of sampling, the parameters to be analyzed, and the reporting requirements shall be established in the permit.

(10) Liquids Restrictions

(a) Bulk or non-containerized liquid waste may not be placed in landfills unless:

(1) the waste is household waste other than septic waste; or

(2) the waste is leachate or gas condensate derived from the landfill. Prior to placing such liquids in the landfill the owner must demonstrate and obtain approval from the Department that the landfill, whether it is a new or existing landfill or lateral expansion, is designed with a composite liner and leachate collection system as described in paragraph C.1.b. of this rule. The owner must place

the demonstration in the operating record and notify the Department that it has been placed in the operating record.

(b) Containers holding liquid waste may not be placed in a landfill unless:

(1) the container is a small container similar in size to that normally found in household waste;

(2) the container is designed to hold liquids for use other than storage; or

(3) the waste is household waste.

(11) Recordkeeping Requirements

(a) The owner of a landfill must keep an accurate written daily record of deliveries of solid waste to the facility including but not limited to: the name of the hauler, the source of the waste, the types of waste received and the weight of solid waste measured in tons received at the facility. For those facilities that do not have access to weight scales, the weight should be converted to tons from cubic yards using conversion factors developed or approved by the Department.

(b) The owner of a landfill must record and retain near the facility in an operating record or in an alternative location approved by the Department the following information as it becomes available:

(1) any location restriction demonstration required under Rule 1.3 of these regulations;

(2) inspection records, training procedures, notification procedures, and any other information necessary to demonstrate compliance with paragraph B.1. of this rule;

(3) any gas monitoring results from monitoring and any remediation plans required by paragraph B.4 of this rule;

(4) any landfill design documentation for placement of leachate or gas condensate in the landfill as required under paragraph 10.a.(2) of this rule;

(5) any demonstration, certification, finding, monitoring, testing, or analytical data required by paragraph D of this rule;

(6) closure and post-closure care plans and any monitoring, testing, or analytical data as required by paragraph E of this rule; and

(7) any cost estimates and financial assurance documentation required by paragraph F of this rule.

(c) The owner must notify the Department when the documents from paragraph B.11.b of this rule have been placed or added to the operating record and shall make such documents available at all reasonable times for inspection by the Department. Additionally, upon request by the Department, a copy of any information contained in the operating record must be furnished to the Department.

(d) The Department may set alternative schedules for recordkeeping and notification requirements as specified in paragraphs B.11.b. and B.11.c of this rule, except for the notification requirements in Rule 1.3.B.5 of this rule and paragraph D.5.g(1)(iii) of this rule.

(12) Buffer Requirements to Utility Easements. Unless otherwise required by special circumstances, owners of all landfills must maintain a minimum distance of 25 feet between the disposal operation and pipeline, underground utility or electrical transmission line easements. The buffer should provide enough distance to ensure the safety of the operating personnel and facilities to be protected and should also provide space for drainage controls.

(13) Windblown Materials. A portable fence or other suitable means of containment shall be employed, if necessary, to confine windblown materials from unloading, spreading and compaction operations to the smallest area practical. It shall be the responsibility of the site operator to collect and return to the active disposal area all windblown materials at least every operating day or as necessary to minimize unhealthy, unsafe or unsightly conditions.

(14) All Weather Access. All-weather roads shall be provided within the site to any designated unloading area. Provisions shall be made to provide proper cover during wet weather.

(15) Annual Report. The owner of a solid waste landfill shall submit an annual report to the Department each year on or before February 28th, to include information describing the operations from the preceding calendar year. At a minimum, the report shall contain the following:

(a) aggregate information on the types, amounts and sources of waste received during the calendar year. Listed types should be divided minimally into residential and non-residential wastes. The amounts of waste received should be reported in units of tons, with the amount of waste originating in-state and out-of-state listed separately. The sources of waste should list cities and/or counties individually, with a clear indication of wastes originating from out-of-state.

(b) a contour drawing of the landfill showing areas filled during the report year and total cumulative areas filled.

(c) the estimated remaining capacity, in terms of volume and years of life remaining.

(d) if the owner or contract operator is a private concern, an updated disclosure statement. If all information from the previously submitted disclosure statement is unchanged, a letter stating such may be included in lieu of an updated disclosure statement.

(e) an adjusted closure and post-closure cost estimate, if applicable.

(f) an audit of the financial assurance document and the end-of-year value of the financial assurance mechanism, if applicable.

(g) a modified financial assurance document, if necessary.

(16) Contract Operator - Disclosure Requirements. If the owner of a commercial solid waste landfill contracts with any person other than a public agency to operate the facility, the owner shall not allow the contractor to begin operation until a disclosure statement has been submitted to and approved by the Permit Board or the Permit Board's designee in accordance with Section 17-17-501, Mississippi Code Annotated, and the regulations promulgated pursuant thereto.

(17) Equipment. Owners of a landfill must insure that adequate numbers and types of operating equipment are provided at all times to properly manage the landfill operation. Replacement equipment shall be promptly brought to the site, as necessary, in the event of equipment breakdown.

(18) Excavation of Waste. No excavation of solid waste shall be conducted without approval of the Department.

(19) Liner Quality Assurance. At least two weeks prior to disposal of solid waste in any new MSWLF unit or lateral expansion of existing MSWLF unit, or other landfill where deemed necessary by the Permit Board, a construction quality assurance report shall be submitted to the Department. The report shall contain a certification from an independent registered professional engineer that the area has been constructed according to the approved design plans.

(20) Operator Certification

(a) Each commercial solid waste landfill must be operated by a person who holds a current certificate of competency issued by the Commission in accordance with Title 11, Part 4, Chapter 8 (Operator Regs.). Such person

must have direct supervision over and be personally responsible for the daily operation and maintenance of the landfill.

(b) In the event of temporary loss of a certified operator due to illness, death, discharge, or other legitimate cause, written notice shall be given to the Department within 7 days. The continued operation of such system without a certified operator may proceed on an interim basis for a period not to exceed 180 days, except for good cause shown upon petition to the Commission.

C. Design Criteria

(1) New landfills and lateral expansions of existing, MSWLF units shall be constructed in accordance with one of the following designs:

(a) with a composite liner as defined by these regulations and a leachate collection system that is designed and constructed to maintain less than a 30-cm depth (11.81 inches) of leachate over the liner, excluding sumps and collection trenches; or

(b) with a design approved by the Department. For new MSWLF units and lateral expansions of existing MSWLF units, the design must ensure that the concentration values listed in Table 1 of 40 CFR Part 258 (Subpart D) will not be exceeded in the uppermost aquifer at the relevant point of compliance, as specified by the Department under paragraph C.3 of this rule.

(2) When approving a design that complies with paragraph C.1.b of this rule, the Department shall consider at least the following factors:

(a) the hydrogeologic characteristics of the facility and surrounding land;

(b) the climatic factors of the area;

(c) the volume and physical and chemical characteristics of the waste and the leachate; and

(d) other relevant factors as determined by the Department.

(3) The relevant point of compliance specified by the Department shall be no more than 150 meters from the waste management unit boundary and shall be located on land owned by the owner of the landfill. In determining the relevant point of compliance, the Department shall consider at least the following factors:

(a) the hydrogeologic characteristics of the facility and surrounding land;

(b) the volume and physical and chemical characteristics of the leachate;

(c) the quantity, quality, and direction, of flow of groundwater;

(d) the proximity and withdrawal rate of the groundwater users;

(e) the availability of alternative drinking water supplies;

(f) the existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater and whether groundwater is currently used or reasonably expected to be used for drinking water;

(g) public health, safety, and welfare effects;

(h) practicable capability of the owner; and

(i) other relevant factors as determined by the Department.

D. Groundwater Monitoring and Corrective Action Requirements

(1) Schedule of Compliance

(a) Owners of landfills must comply with the groundwater monitoring requirements of this rule before waste can be placed in the landfill.

(b) The Department may approve an alternative schedule for the owners of existing landfills and lateral expansions to comply with the groundwater monitoring requirements specified in this section. In setting the compliance schedule, the Department must consider potential risks posed by the unit to human health and the environment. The following factors should be considered in determining potential risk:

(1) proximity of human and environmental receptors;

(2) design of the landfill;

(3) age of the landfill;

(4) the size of the landfill;

(5) types and quantities of wastes disposed including sewage sludge; and

(6) resource value of the underlying aquifer, including:

(i) current and future uses;

(ii) proximity and withdrawal rate of users; and

(iii) groundwater quality and quantity.

(c) Once established at a landfill, groundwater monitoring shall be conducted throughout the active life and post-closure care period of that landfill as specified in paragraph E. of this rule.

(d) The Department may establish alternative schedules for demonstrating compliance with:

(1) paragraph D.2.d.(2) of this rule, pertaining to notification of placement of certification in operating record;

(2) paragraph D.4.d.(1) of this rule, pertaining to notification that statistically significant increase (SSI) notice is in operating record;

(3) paragraphs D.4.d.(2) and D.4.d.(3) of this rule, pertaining to an assessment monitoring program;

(4) paragraph D.5.b of this rule, pertaining to sampling and analyzing Appendix II constituents;

(5) paragraph D.5.d.(1) of this rule, pertaining to placement of notice (Appendix II constituents detected) in record and notification of notice in record;

(6) paragraph D.5.d.(2) of this rule, pertaining to sampling for Appendix I and II;

(7) paragraph D.5.g. of this rule, pertaining to notification (and placement of notice in record) of SSI above groundwater protection standard;

(8) paragraphs D.5.g.(1)(iv) and D.6.a of this rule, pertaining to assessment of corrective measures;

(9) paragraph D.7.a of this rule, pertaining to selection of remedy and notification of placement in record;

(10) paragraph D.8.c.(4) of this rule, pertaining to notification of placement in record (alternative corrective action measures); and

(11) paragraph D.8.f of this rule, pertaining to notification of placement in record (certification of remedy completed).

(e) Groundwater monitoring requirements under paragraphs D.2 through D.5 of this rule may be suspended by the Department, if the owner can demonstrate that there is no potential for migration of hazardous constituents from the landfill to the uppermost aquifer during the active life of the landfill and the post-closure care period. This demonstration must be certified by a qualified groundwater scientist and approved by the Department, and must be based upon:

(1) site-specific field collected measurements, sampling, and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and

(2) contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and environment.

For landfills other than MSWLF units the Department may approve an alternative demonstration process.

(2) Groundwater Monitoring Systems

(a) A groundwater monitoring system must be installed that consists of a sufficient number of wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer that:

(1) Represent the quality of background groundwater that has not been affected by leakage from a unit. A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

(i) hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; or

(ii) sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells.

(2) Represent the quality of groundwater passing the relevant point of compliance specified by the Department under paragraph C.3 of this rule. The downgradient monitoring system must be installed at the relevant point of compliance specified by the Department

under paragraph C.3. of this rule that ensures detection of groundwater contamination in the uppermost aquifer. When physical obstacles preclude installation of groundwater monitoring wells at the relevant point of compliance at existing units, the down-gradient monitoring system may be installed at the closest practicable distance hydraulically down-gradient from the relevant point of compliance specified by the Department, under paragraph C.3 of this rule that ensure detection of groundwater contamination in the uppermost aquifer.

(b) The Department may approve a multi-unit groundwater monitoring system instead of separate groundwater monitoring systems for each landfill unit when the facility has several units, provided the multi-unit groundwater monitoring system meets the requirement of paragraph D.2.a of this rule and will be as protective of human health and the environment as individual monitoring systems for each landfill unit, based on the following factors:

(1) number, spacing, and orientation of the landfill units;

(2) hydrogeologic setting;

(3) site history;

(4) engineering design of the landfill units; and

(5) type of waste accepted at the landfill units.

(c) Monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space (i.e., the space between the bore hole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the groundwater.

(1) The owner must notify the Department that the design, installation, development, and decommission of any monitoring wells, piezometers and other measurement, sampling, and analytical devices documentation has been placed in the operating record; and

(2) The monitoring wells, piezometers, and other measurement, sampling, and analytical devices must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

(d) The number, spacing, and depths of monitoring systems shall be:

(1) Determined based upon site-specific technical information that must include thorough characterization of:

(i) aquifer thickness, groundwater flow rate, groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and

(ii) saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer; including, but not limited to: thicknesses, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities.

(2) Certified by a qualified groundwater scientist and approved by the Department. Within 14 days of this certification, the owner must notify the Department that the certification has been placed in the operating record.

(3). Groundwater Sampling and Analysis Requirements

(a) The groundwater monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of groundwater quality at the background and downgradient wells installed in compliance with paragraph D.2.a of this rule. The owner must notify the Department that the sampling and analysis program documentation has been placed in the operating record and the program must include procedures and techniques for:

(1) sample collection;

(2) sample preservation and shipment;

(3) analytical procedures;

(4) chain of custody control; and

(5) quality assurance and quality control.

(b) The groundwater monitoring program must include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure hazardous constituents and other monitoring

parameters in groundwater samples. Groundwater samples shall not be field-filtered prior to laboratory analysis.

(c) The sampling procedures and frequency must be protective of human health and the environment.

(d) Groundwater elevations must be measured in each well immediately prior to purging, each time groundwater is sampled. The owner must determine the rate and direction of groundwater flow each time groundwater is sampled. Groundwater elevations in wells which monitor the same waste management area must be measured within a period of time short enough to avoid temporal variations in groundwater flow which could preclude accurate determination of groundwater flow rate and direction.

(e) The owner must establish background groundwater quality in a hydraulically upgradient or background well(s) for each of the monitoring parameters or constituents required in the particular groundwater monitoring program that applies to the landfill, as determined under paragraph D.4.a or paragraph D.5.a of this rule. Background groundwater quality may be established at wells that are not located hydraulically upgradient from the landfill if it meets the requirements of paragraph D.2.a (1) of this rule.

(f) The number of samples collected to establish groundwater quality data must be consistent with the appropriate statistical procedures determined pursuant to paragraph D.3.g of this rule. The sampling procedures shall be those specified under paragraph D.4.b of this rule for detection monitoring, paragraphs D.5.b and D.5.d of this rule for assessment monitoring, and paragraph D.6.b of this rule for corrective action.

(g) The owner must specify in the operating record one of the following statistical methods to be used in evaluating groundwater monitoring data for each hazardous constituent. The statistical test chosen shall be conducted separately for each hazardous constituent in each well.

(1) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(3) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(4) A control chart approach that gives control limits for each constituent.

(5) Another statistical test method that meets the performance standards of paragraph D.3.h of this rule. The owner must place a justification for this alternative in the operating record and obtain approval from the Department for the use of this alternative test. The justification must demonstrate that the alternative method meets the performance standards of paragraph D.3.h of this rule.

(h) Any statistical method chosen under paragraph D.3.g of this rule shall comply with the following performance standards, as appropriate:

(1) The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of chemical parameters or hazardous constituents. If the distribution of the chemical parameters or hazardous constituents is shown by the owner to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(2) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment wise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

(3) If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after considering the number of samples in the background data base,

the data distribution, and the range of the concentration values for each constituent of concern.

(4) If a tolerance interval or a predictional interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters shall be determined after considering the number of samples in the background database, the data distribution, and the range of the concentration values for each constituent of concern.

(5) The statistical method shall account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit (pql) that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(6) If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(i) The owner must determine whether or not there is a statistically significant increase over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the landfill, as determined under paragraphs D.4.a or D.5.a of this rule.

(1) In determining whether a statistically significant increase has occurred, the owner must compare the groundwater quality of each parameter or constituent at each monitoring well designated pursuant to paragraph D.2.a.(2) of this rule to the background value of that constituent, according to the statistical procedures and performance standards specified under paragraphs D.3.g and D.3.h of this rule.

(2) Within a reasonable period of time after completing sampling and analysis, the owner must determine whether there has been a statistically significant increase over background at each monitoring well.

(4) Detection Monitoring Program

(a) Detection monitoring is required at all groundwater monitoring wells defined under paragraphs D.2.a.(1) and D.2.a.(2) of this rule. At a

minimum, a detection monitoring program must include the monitoring for the constituents listed in Appendix I of 40 CFR Part 258.

(1) The Department may delete any of the Appendix I monitoring parameters for a landfill if it can be shown that the removed constituents are not reasonably expected to be contained in or derived from the waste contained in the landfill.

(2) The Department may establish an alternative list of inorganic indicator parameters for a landfill, in lieu of some or all of the heavy metals (constituents 1-15 in Appendix I of 40 CFR Part 258, if the alternative parameters provide a reliable indication of inorganic releases from the landfill to the groundwater. In determining alternative parameters, the Department shall consider the following factors:

(i) the types, quantities, and concentrations of constituents in waste managed at the landfill;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the landfill;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the groundwater; and

(iv) the concentration or values and coefficients of variation of monitoring parameters or constituents in the groundwater background.

(b) The monitoring frequency for all constituents listed in Appendix I of 40 CFR Part 258, or in the alternative list approved in accordance with paragraph D.4.a.(2) of this rule, shall be at least semiannual during the active life of the facility (including closure) and the post-closure period. A minimum of four independent samples from each well (background and downgradient) must be collected and analyzed for the Appendix I constituents, or the alternative list approved in accordance with paragraph D.4.a.(2) of this rule, during the first semiannual sampling event. At least one sample from each well (background and downgradient) must be collected and analyzed during subsequent semiannual sampling events.

The Department may specify an appropriate alternative frequency for repeated sampling and analysis for Appendix I constituents, or the alternative list approved in accordance with paragraph D.4.a.(2) of this rule, during the active life (including closure) and the post-closure care period. The alternative frequency during the active life (including closure)

shall be no less than annual. The alternative frequency shall be based on consideration of the following factors:

(1) lithology of the aquifer and unsaturated zone;

(2) hydraulic conductivity of the aquifer and unsaturated zone;

(3) groundwater flow rates;

(4) minimum distance between upgradient edge of the landfill and downgradient monitoring well screen (minimum distance of travel); and

(5) resource value of the aquifer.

(c) Results of all detection monitoring pursuant to paragraph D.4.a of this rule shall be submitted to the Department no later than sixty (60) days following each monitoring period.

(d) If the owner determines, pursuant to paragraph D.3.g of this rule, that there is a statistically significant increase (SSI) over background for one or more of the constituents listed in Appendix I of 40 CFR Part 258, or in the alternative list approved in accordance with paragraph D.4.a.(2) of this rule, at any monitoring well at the boundary specified under paragraph D.2.a.(2) of this rule, the owner:

(1) must, within 14 days of this finding, place a notice in the operating record indicating which constituents have shown statistically significant changes from background levels, and notify the Department that this notice was placed in the operating record; and

(2) must establish an assessment monitoring program meeting the requirements of paragraph D.5. of this rule within 90 days except as provided for in paragraph D.4.d.(3) of this rule.

(3) the owner may demonstrate that a source other than the landfill caused the contamination or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration must be certified by a qualified groundwater scientist and approved by the Department and shall be placed in the operating record. If a successful demonstration is made and documented, the owner may continue detection monitoring as specified in this section. If, after 90 days, a successful demonstration is not made, the owner must initiate an

assessment monitoring program as required in paragraph D.5. of this rule.

(5) Assessment Monitoring Program

(a) Assessment monitoring is required whenever a statistically significant increase (SSI) over background has been detected for one or more of the constituents listed in Appendix I of 40 CFR Part 258 or in the alternative list approved in accordance with paragraph D.4.a.(2) of this rule.

(b) Within 90 days of triggering an assessment monitoring program, and annually thereafter, the owner must sample and analyze the groundwater for all constituents identified in Appendix II of 40 CFR Part 258. A minimum of one sample from each downgradient well must be collected and analyzed during each sampling event. For any constituent detected in the downgradient wells as the result of the complete Appendix II analysis, a minimum of four independent samples from each well (background and downgradient) must be collected and analyzed to establish background for the new constituents.

The Department may specify an appropriate subset of wells to be sampled and analyzed for Appendix II constituents during assessment monitoring. The Department may delete any of the Appendix II monitoring parameters if it can be shown that the removed constituents are not reasonably expected to be in or derived from the waste contained in the unit.

Results of all assessment monitoring pursuant to this paragraph shall be submitted to the Department no later than sixty (60) days following each monitoring period.

(c) The Department may specify an appropriate alternate frequency for repeated sampling and analysis for the full set of Appendix II constituents required by paragraph D.5.b of this rule, during the active life (including closure) and post-closure care of the unit considering the following factors:

(1) lithology of the aquifer and unsaturated zone;

(2) hydraulic conductivity of the aquifer and unsaturated zone;

(3) groundwater flow rates;

(4) minimum distance between upgradient edge of the landfill and downgradient monitoring well screen (minimum distance of travel);

(5) resource value of the aquifer; and

(6) nature (fate and transport) of any constituents detected in response to this section.

(d) After obtaining the results from the initial or subsequent sampling events required in paragraph D.5.b of this rule, the owner must:

(1) within 14 days, place a notice in the operating record identifying the Appendix II constituents that have been detected and notify the Department that this notice has been placed in the operating record;

(2) within 90 days, and on at least a semiannual basis thereafter, resample all wells specified by paragraph D.2.a. of this rule, conduct analyses for all constituents in Appendix I of 40 CFR Part 258 or in the alternative list approved in accordance with paragraph D.4.a.(2) of this rule, and for those constituents in Appendix II of 40 CFR Part 258 that are detected in response to paragraph D.5.b of this rule, and record their concentrations in the facility operating record. At least one sample from each well (background and downgradient) must be collected and analyzed during these sampling events.

The Department may specify an alternative monitoring frequency during the active life (including closure) and the post closure period for the constituents referred to in this paragraph. The alternative frequency for Appendix I constituents, or the alternative list approved in accordance with paragraph D.4.a.(2) of this rule, during the active life (including closure) shall be no less than annual. The alternative frequency shall be based on consideration of the factors specified in paragraph D.5.c. of this rule;

(3) establish background concentrations for any constituents detected pursuant to paragraphs D.5.b or D.5.d.(2) of this rule; and

(4) establish groundwater protection standards for all constituents detected pursuant to paragraphs D.5.b. or D.5.d of this rule. The groundwater protection standards shall be established in accordance with paragraphs D.5.h or D.5.i of this rule.

(e) If the concentrations of all Appendix II constituents are shown to be at or below background values, using the statistical procedures in paragraph D.3.g of this rule, for two consecutive sampling events, the owner must notify the Department of this finding and may return to detection monitoring.

(f) If the concentrations of any Appendix II constituents are above background values, but all concentrations are below the groundwater protection standard established under paragraphs D.5.h or D.5.i of this rule, using the statistical procedures in paragraph D.3.g of this rule, the owner must continue assessment monitoring in accordance with this section.

(g) If one or more Appendix II constituents are detected at statistically significant levels above the groundwater protection standard established under paragraphs D.5.h or D.5.i of this rule in any sampling event, the owner must, within 14 days of this finding, place a notice in the operating record identifying the Appendix II constituents that have exceeded the groundwater protection standard and notify the Department and all appropriate local government officials that the notice has been placed in the operating record.

(1) The owner also:

(i) must characterize the nature and extent of the release by installing additional monitoring wells as necessary;

(ii) must install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with paragraph D.5.d.(2) of this rule;

(iii) must notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site if indicated by sampling of wells in accordance with paragraph D.5.g.(1) of this rule; and

(iv) must initiate an assessment of corrective measures as required by paragraph D.6 of this rule within 90 days; or

(2) The owner may demonstrate that a source other than the landfill caused the contamination, or that the SSI resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration must be certified by a qualified groundwater scientist and approved by the Department and placed in the operating record. If a successful demonstration is made the owner must continue monitoring in accordance with the assessment monitoring program pursuant to this section, and may return to detection monitoring if the Appendix II constituents are at or below background as

specified in paragraph D.5.e of this rule. Until a successful demonstration is made, the owner must comply with paragraph D.5.g of this rule including initiating an assessment of corrective measures.

(h) The owner must establish a groundwater protection standard for each Appendix II constituent detected in the groundwater. The groundwater protection standard shall be:

(1) for constituents for which a maximum contaminant level (MCL) has been promulgated under Section 1412 of the Safe Drinking Water Act (codified) under 40 CFR Part 141, the MCL for that constituent;

(2) for constituents for which MCLs have not been promulgated, the background concentration for the constituent established from wells in accordance with paragraph D.2.a.(1) of this rule; or

(3) for constituents for which the background level is higher than the MCL identified under paragraph D.5.h.(1) of this rule or health based levels identified under paragraph D.5.i.(1) of this rule, the background concentration.

(i) The Department may establish an alternative groundwater protection standard for constituents for which MCLs have not been established. These groundwater protection standards shall be appropriate health based levels that satisfy the following criteria:

(1) the level is derived in a manner consistent with the United States Environmental Protection Agency guidelines for assessing the health risks of environmental pollutants (51 FR 33992, 34006, 34014, 34028, September 24, 1986);

(2) the level is based on scientifically valid studies conducted in accordance with the Toxic Substances Control Act Good Laboratory Practice Standards (40 CFR part 792) or equivalent;

(3) for carcinogens, the level represents a concentration associated with an excess lifetime cancer risk level (due to a continuous lifetime exposure) within the 1×10^{-4} to 1×10^{-6} range;

(4) for systemic toxicants, the level represents a concentration to which the human population (including sensitive subgroups) could be exposed to on a daily basis that is likely to be without appreciable risk of deleterious effects during a lifetime. For

purposes of these regulations, systemic toxicants include toxic chemicals that cause effects other than cancer or mutation; and

(5) the level is not less stringent than any applicable State groundwater standards.

(j) In establishing groundwater protection standards under paragraph D.5.i of this rule, the Department may consider the following:

(1) multiple contaminants in the groundwater;

(2) exposure threats to sensitive environmental receptors; and

(3) other site-specific exposure or potential exposure to groundwater.

(6) Assessment of Corrective Measures

(a) Within 90 days of finding that any of the constituents listed in Appendix II of 40 CFR Part 258 have been detected at a statistically significant level exceeding the groundwater protection standards defined under paragraph D.5.h or D.5.i of this rule, the owner must initiate an assessment of corrective measures. Such an assessment must be completed within a reasonable period of time.

(b) The owner must continue to monitor in accordance with the assessment monitoring program as specified in paragraph D.5. of this rule.

(c) The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described under paragraph D.7 of this rule, addressing at least the following:

(1) the performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

(2) the time required to begin and complete the remedy;

(3) the costs of remedy implementation; and

(4) the institutional requirements such as State or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy(s).

(d) The owner must discuss the results of the corrective measures assessment, prior to the selection of remedy, in a public meeting with interested and affected parties.

(7) Selection of Remedy

(a) Based on the results of the corrective measures assessment conducted under paragraph D.6 of this rule, the owner must select a remedy that, at a minimum, meets the standards listed in paragraph D.7.b of this rule. The owner must notify the Department, within 14 days of selecting a remedy, that a report describing the selected remedy has been placed in the operating record and how it meets the standards in paragraph D.7.b of this rule.

(b) Remedies must:

(1) be protective of human health and the environment;

(2) attain the groundwater protection standard as specified pursuant to paragraphs D.5.h or D.5.i of this rule;

(3) control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of Appendix II constituents into the environment that may pose a threat to human health or the environment; and

(4) comply with standards for management of wastes as specified in paragraph D.8.d of this rule.

(c) In selecting a remedy that meets the standards of paragraph D.7.b of this rule, the owner shall consider the following evaluation factors:

(1) the long- and short-term effectiveness and protectiveness of the potential remedy(s), along with the degree of certainty that the remedy will prove successful based on consideration of the following:

(i) magnitude of reduction of existing risks;

(ii) magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;

(iii) the type and degree of long-term management required including monitoring, operation, and maintenance;

(iv) short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment;

(v) time until full protection is achieved;

(vi) potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;

(vii) long-term reliability of the engineering and institutional controls; and

(viii) potential need for replacement of the remedy.

(2) the effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

(i) the extent to which containment practices will reduce further releases; and

(ii) the extent to which treatment technologies may be used.

(3) the ease or difficulty of implementing a potential remedy(s) based on consideration of the following types of factors:

(i) degree of difficulty associated with constructing the technology;

(ii) expected operational reliability of the technologies;

(iii) need to coordinate with and obtain necessary approvals and permits from other agencies;

(iv) availability of necessary equipment and specialists; and

(v) available capacity and location of needed treatment, storage, and disposal services.

(4) practicable capability of the owner, including a consideration of the technical and economic capability.

(5) the degree to which community concerns are addressed by a potential remedy(s).

(d) The owner shall specify as part of the selected remedy a schedule(s) for initiating and completing remedial activities. Such a schedule must require the initiation of remedial activities within a reasonable period of time taking into consideration the factors set forth in paragraphs D.7.d.(1) through D.7.d.(8) of this rule. The owner must consider the following factors in determining the schedule of remedial activities:

(1) extent and nature of contamination;

(2) practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established under paragraphs D.5.g or D.5.h of this rule and other objectives of the remedy;

(3) availability of treatment or disposal capacity for wastes managed during implementation of the remedy;

(4) desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;

(5) potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;

(6) resource value of the aquifer including:

(i) current and future uses;

(ii) proximity and withdrawal rate of users;

(iii) groundwater quantity and quality;

(iv) the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituent;

(v) the hydrogeologic characteristic of the facility and surrounding land;

(vi) groundwater removal and treatment costs; and

(vii) the cost and availability of alternative water supplies.

(7) practicable capability of the owner; and

(8) other relevant factors.

(e) The Department may determine that remediation of a release of an Appendix II constituent from a landfill is not necessary if the owner demonstrates to the Department that:

(1) the groundwater is additionally contaminated by substances that have originated from a source other than a landfill and those substances are present in concentrations such that cleanup of the release from the landfill would provide no significant reduction in risk to actual or potential receptors; or

(2) the constituent(s) is present in groundwater that:

(i) is not currently or reasonably expected to be a source of drinking water; and

(ii) is not hydraulically connected with waters to which the hazardous constituents are migrating or are likely to migrate in a concentration(s) that would exceed the groundwater protection standards established under paragraph D.5.h or D.5.i of this rule; or

(3) remediation of the release(s) is technically impracticable; or

(4) remediation results in unacceptable cross-media impacts.

(f) A determination by the Department pursuant to paragraph D.7.e of this rule shall not affect the authority of the State to require the owner to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and significantly reduce threats to human health or the environment.

(8) Implementation of the Corrective Action Program

(a) Based on the schedule established under paragraph D.7.d of this rule for initiation and completion of remedial activities the owner must:

(1) establish and implement a corrective action groundwater monitoring program that:

(i) at a minimum, meets the requirements of an assessment monitoring program under paragraph D.5 of this rule;

(ii) indicates the effectiveness of the corrective action remedy; and

(iii) demonstrates compliance with groundwater protection standard pursuant to paragraph D.8.e of this rule.

(2) implement the corrective action remedy selected under paragraph D.7 of this rule; and

(3) take any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to paragraph D.7 of this rule. The following factors must be considered by an owner in determining whether interim measures are necessary:

(i) time required to develop and implement a final remedy;

(ii) actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;

(iii) actual or potential contamination of drinking water supplies or sensitive ecosystems;

(iv) further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

(v) weather conditions that may cause hazardous constituents to migrate or be released;

(vi) risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and

(vii) other situations that may pose threats to human health and the environment.

(b) An owner may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of paragraph D.7.b of this rule are not being achieved through the remedy selected. In such cases, the owner must implement other methods or techniques that could practicably achieve

compliance with the requirements, unless the owner makes the determination under paragraph D.8.c of this rule.

(c) If the owner determines that compliance with requirements under paragraph D.7.b of this rule cannot be practically achieved with any currently available methods, the owner must:

(1) obtain certification of a qualified groundwater scientist and approval by the Department that compliance with requirements under paragraph D.7.b of this rule cannot be practically achieved with any currently available methods;

(2) implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment;

(3) implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:

(i) technically practicable; and

(ii) consistent with the overall objective of the remedy.

(4) notify the Department within 14 days that a report justifying the alternative measures prior to implementing the alternative measures has been placed in the operating record.

(d) All solid wastes that are managed pursuant to a remedy required under paragraph D.7 of this rule, or an interim measure required under paragraph D.8.a.(3) of this rule, shall be managed in a manner:

(1) that is protective of human health and the environment; and

(2) that complies with applicable RCRA requirements.

(e) Remedies selected pursuant to paragraph D.7 of this rule shall be considered complete when:

(1) the owner complies with the groundwater protection standards established under paragraph D.5.h or D.5.i of this rule at all points within the plume of contamination that lie beyond the groundwater monitoring well system established under paragraph D.2.a of this rule.

(2) compliance with the groundwater protection standards established under paragraphs D.5.h or D.5.i of this rule has been achieved by demonstrating that concentrations of Appendix II constituents have not exceeded the groundwater protection standard(s) for a period of three consecutive years using the statistical procedures and performance standards in paragraph D.3.g and D.3.h of this rule. The Department may specify an alternative length of time during which the owner must demonstrate that concentrations of Appendix II constituents have not exceeded the groundwater protection standard(s) taking into consideration:

(i) Extent and concentration of the release(s);

(ii) Behavior characteristics of the hazardous constituents in the groundwater;

(iii) Accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and

(iv) Characteristics of the groundwater.

(3) all actions required to complete the remedy have been satisfied.

(f) Upon completion of the remedy, the owner must notify the Department within 14 days that a certification that the remedy has been completed in compliance with the requirements of paragraph D.8.e of this rule has been placed in the operating record. The certification must be signed by the owner and by a qualified groundwater scientist and approved by the Department.

(g) When, upon completion of the certification, the owner determines that the corrective action remedy has been completed in accordance with the requirements under paragraph D.8.e of this rule, the owner shall be released from the requirements for financial assurance for corrective action under paragraph F of this rule.

E. Closure and Post-Closure Care

(1) Closure/Post-Closure Plan.

(a) Owners of MSWLF units must prepare a written closure/post-closure plan that describes the steps necessary to close all MSWLF units at any point during its active life in accordance with the requirements of paragraph E.2 of this rule, to monitor and care for the facility during the post-closure period in accordance with the requirements of paragraph E.3 of this rule,

and to reclaim any on-site borrow areas used for obtaining daily or final cover. The plan, at a minimum, must include the following information:

(1) a description of the final cover, designed in accordance with paragraph E.2.a or E.2.b of this rule, and the methods and procedures to be used to install the cover;

(2) an estimate of the largest area of the MSWLF unit ever requiring a final cover as required in paragraph E.2.a of this rule at any time during the active life;

(3) an estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility;

(4) a schedule for completing all activities necessary to satisfy the closure requirements in paragraph E.2 of this rule.

(5) a description of the monitoring and maintenance activities required in paragraph E.3 of this rule for each MSWLF unit, and frequency at which these activities will be performed;

(6) name, address, and telephone number of the person or office to contact about the facility during the post-closure period; and

(7) a description of the planned use of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with any other state or federal regulations. The Department may approve any other disturbance if the owner demonstrates that disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

(b) Owners of MSWLF units must notify the Department that a closure/post-closure plan has been prepared and placed in the operating record no later than the effective date of these regulations, or by the initial receipt of waste, whichever is later.

(c) Closure and post-closure activities at an MSWLF unit must be conducted in accordance with the closure/post-closure plan after approval of the plan is granted by the Department. Any proposed change to the plan must be submitted to the Department for approval. No changes to the plan may be made without approval by the Department. A copy of the approved plan

must be kept at the landfill or another approved site until the owner has been released from the requirements for closure and post-closure care.

(2) Closure Requirements.

(a) Owners of MSWLF units and all other landfills must install a final cover system that is designed to minimized infiltration and erosion. The final cover system must be comprised of an erosion layer underlain by an infiltration layer as follows:

(1) The infiltration layer must be comprised of a minimum of 18 inches of earthen material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present, or a permeability no greater than 1 x 10^{-5} cm/sec, whichever is less, and

(2) The erosion layer must consist of a minimum of 6 inches of earthen material that is capable of sustaining native plant growth.

(b) The Department may approve an alternative final cover design that includes:

(1) an infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in paragraph E.2.a.(1) of this rule, and

(2) an erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified in paragraph E.2.a.(2) of this rule.

(c) The final cover gradient on landfills that receive waste on or after the effective date of these regulations shall be a minimum of four percent (4%) and a maximum of twenty-five percent (25%), unless otherwise approved by the Department.

(d) The final cover gradient on MSWLF units that stop receiving waste before the effective date of these regulations shall not exceed twenty-five percent (25%), unless otherwise approved by the Department.

(e) A native grass seed or other shallow-rooted vegetation suitable to minimize soil erosion, as approved by the Department, must be planted and maintained over each closed unit. Trees may not be used in lieu of or in addition to the grass cover.

(f) Following closure of each MSWLF unit or other landfill, the owner must notify the Department that a certification, signed by an independent

registered professional engineer, verifying that the final cover system has been completed in accordance with paragraphs E.2.a through E.2.e of this rule, has been placed in the operating record. Such certification must be placed in the operating record within sixty (60) days after planting the grass seed in accordance with paragraph E.2.e of this rule.

(g) (1) Within ninety (90) days after all landfill units are closed, the owner must record on the deed to the landfill facility property, or some other instrument that is normally examined during title search, a notation and survey plat, prepared by a registered land surveyor, indicating the location and dimensions of the actual filled area with respect to permanently surveyed benchmarks or Section corners, and notify the Department that the notation and survey plat have been recorded and a copy of each has been placed in the operating record.

(2) The notation on the deed must in perpetuity notify any potential purchaser of the property of the following information:

(i) the land has been used as a landfill facility;

(ii) the name of the landfill owner(s);

(iii) the year the landfill started and ended disposal operations; and

(iv) its use is restricted under paragraph E.1.a.(7) of this rule.

(h) The owner of a landfill may request permission from the Department to remove the notation and survey plat from the deed if all wastes are removed from the facility.

(i) Prior to beginning closure of each MSWLF unit or other landfill as specified in paragraph E.2.j of this rule, an owner must notify the Department that a notice of intent to close the unit or landfill has been placed in the operating record.

(j) The owner must begin closure activities of each MSWLF unit or other landfill no later than 30 days after the date on which the unit receives the known final receipt of wastes or, if the unit has remaining capacity and there is a reasonable likelihood that the unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the Department if the owner demonstrates that the unit has the capacity to receive additional wastes and the owner has taken and will continue to

take all steps necessary to prevent threats to human health and the environment from the unclosed unit.

(k) The owner must complete closure activities of each MSWLF unit or other landfill within 180 days following the beginning of closure as specified in paragraph E.2.j of this rule. Extensions of the closure period may be granted by the Department if the owner demonstrates that closure will, of necessity, take longer than 180 days and he has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed unit.

(3) Post-Closure Requirements

(a) Following closure of each MSWLF unit or other landfill, the owner must conduct post-closure care. Post-closure care must be conducted for 30 years, except as provided under paragraph E.3.b of this rule.

(b) The length of the post-closure care period may be:

(1) decreased by the Department if the owner demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the Department; or

(2) increased by the Department if the Department determines that the lengthened period is necessary to protect human health and the environment.

(c) Post-closure care must consist of at least the following:

(1) maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, preventing run-on and run-off from eroding or otherwise damaging the final cover, and preventing the growth of trees on the landfill cover.

(2) maintaining and operating any required leachate collection system in accordance with paragraph C of this rule. The Department may allow the owner to stop managing leachate if the owner demonstrates that leachate no longer poses a threat to human health and the environment;

(3) monitoring the groundwater in accordance with paragraph D of this rule and maintaining the groundwater monitoring system, if applicable;

(4) maintaining and operating any required gas monitoring system in accordance with paragraph B.4 of this rule.

(d) Following completion of the post-closure care period for each MSWLF unit or other landfill, the owner must notify the Department that a certification, signed by an independent registered professional engineer, verifying that post-closure care has been completed in accordance with paragraph E.3 of this rule, has been placed in the operating record. Such certification must be placed in the operating record within sixty (60) days after the completion of the post-closure care period.

F. Financial Assurance. Financial assurance requirements under paragraph F apply to owners of MSWLF units and other commercial landfills, except owners who are State or Federal government entities whose debts and liabilities are the debts and liabilities of the State of Mississippi or the United States. The requirements of this paragraph may be applicable to other landfills as determined necessary by the Permit Board.

(1) Financial Assurance for Closure

(a) The owner must have a detailed written estimate, in current dollars, of the cost of hiring a third party to close the largest area ever requiring a final cover as required under paragraph E of this rule, at any time during the active life. The owner must notify the Department that the estimate has been placed in the operating record.

(1) The cost estimate must equal the cost of closing the largest area ever requiring a final cover at any time during the active life when the extent and manner of its operation would make closure the most expensive.

(2) During the active life of the landfill, the owner must annually adjust the closure cost estimate for inflation.

(3) The owner must increase the closure cost estimate and the amount of financial assurance provided under paragraph F.1.b of this rule if changes to any applicable closure plan or landfill conditions increase the maximum cost of closure at any time during the remaining active life.

(4) Upon approval of the Department and notification in the operating record, the owner may reduce the closure cost estimate and the amount of financial assurance provided under paragraph F.1.b of this rule if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the landfill.

(b) The owner must establish financial assurance for closure in compliance with paragraph F.4 of this rule. The owner must provide continuous coverage for closure until released from financial assurance requirements by demonstrating compliance with paragraph E.2 of this rule.

(2) Financial Assurance for Post-Closure Care

(a) The owner must have a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the landfill in compliance with paragraph E. of this rule. The post-closure cost estimate used to demonstrate financial assurance in paragraph F.2.b of this rule must account for the total costs of conducting post-closure care, including annual and periodic costs over the entire post-closure care period. The owner must notify the Department that the estimate has been placed in the operating record.

(1) The cost estimate for post-closure care must be based on the most expensive costs of post-closure care during the post-closure care period.

(2) During the active life of the landfill and during the post-closure care period, the owner must annually adjust the post-closure cost estimate for inflation.

(3) The owner must increase the post-closure care cost estimate and the amount of financial assurance provided under paragraph F.2.b of this rule if changes in any applicable post-closure plan or landfill conditions increase the maximum costs of post-closure care.

(4) The owner may reduce the post-closure cost estimate and the amount of financial assurance provided under paragraph F.2.b of this rule if the cost estimate exceeds the maximum costs of post-closure care remaining over the post-closure care period. The owner must notify the Department that the justification for the reduction of the post-closure cost estimate and the amount of financial assurance has been placed in the operating record.

(b) The owner must establish, in a manner in accordance with paragraph F.4 of this rule, financial assurance for the costs of post-closure care as required under paragraph E.3.c of this rule. The owner must provide continuous coverage for post-closure care until released from financial assurance requirements for post-closure care by demonstrating compliance with paragraph E.3.d of this rule.

(3) Financial Assurance for Corrective Action

(a) An owner required to undertake a corrective action program under paragraph D.8 of this rule must have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under paragraph D.8 of this rule. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner must notify the Department that the estimate has been placed in the operating record.

(1) The owner must annually adjust the estimate for inflation until the corrective action program is completed in accordance with paragraph D.8.f of this rule.

(2) The owner must increase the corrective action cost estimate and the amount of financial assurance provided under paragraph F.3.b of this rule if changes in the corrective action program or landfill conditions increase the maximum costs of corrective action.

(3) The owner may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided under paragraph F.3.b of this rule if the cost estimate exceeds the maximum remaining costs of corrective action. The owner must notify the Department that the justification for the reduction of the corrective action cost estimate and the amount of financial assurance has been placed in the operating record.

(b) The owner required to undertake a corrective action program under paragraph D.8 of this rule must establish, in a manner in accordance with paragraph F.4 of this rule, financial assurance for the most recent corrective action program. The owner must provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by demonstrating compliance with paragraphs D.8.(f) and D.8.(g) of this rule.

(4) Criteria for Allowable Mechanisms

The mechanisms used to demonstrate financial assurance under this section must ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever they are needed. Owners must choose from the options specified in paragraphs F.4.a through F.4.i of this rule.

(a) Trust Fund.

(1) An owner may satisfy the requirements of this rule by establishing a trust fund, which conforms to the requirements of this paragraph. The trustee must be an entity, which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State of Mississippi agency. A copy of the trust agreement must be placed in the facility's operating record.

(2) Payments into the trust fund must be made annually by the owner over the term of the initial permit or over the remaining life of the MSWLF unit or other landfill, whichever is shorter, in the case of a trust fund for closure or post-closure care, or over one-half of the estimated length of the corrective action program in the case of corrective action for known releases. This period is referred to as the pay-in period.

(3) For a trust fund used to demonstrate financial assurance for closure and post-closure care, the first payment into the fund must be at least equal to the current cost estimate for closure or post-closure care, divided by the number of years in the pay-in period as defined in paragraph F.4.a.(2) of this rule. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{CE-CV}{Y}$$

where CE is the current cost estimate for closure or post-closure care (updated for inflation or other changes), CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) For a trust fund used to demonstrate financial assurance for corrective action, the first payment into the trust fund must be at least equal to one-half of the current cost estimate for corrective action, divided by the number of years in the corrective action pay-in period as defined in paragraph F.4.a.(2) of this rule. The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{RB-CV}{Y}$$

where RB is the most recent estimate of the required trust fund balance for corrective action (i.e., the total costs that will be incurred during the second half of the corrective action period),

CV is the current value of the trust fund, and Y is the number of years remaining on the pay-in period.

(5) The initial payment into the trust fund must be made before the initial receipt of waste or before April 9, 1994, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of paragraph D.8 of this rule.

(6) If the owner establishes a trust fund after having used one or more alternate mechanisms specified in this section, the initial payment into the trust fund must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of paragraph F.4.a of this rule, as applicable.

(7) The owner or other person authorized to conduct closure, post-closure care, or corrective action activities may request reimbursement from the trustee for these expenditures. Requests for reimbursement will be granted by the trustee only if sufficient funds are remaining in the trust fund to cover the remaining costs of closure, post-closure care, or corrective action, and if justification and documentation of the cost is placed in the operating record. The owner must notify the Department that the documentation of the justification for reimbursement has been placed in the operating record and that reimbursement has been received.

(8) The trust fund may be terminated by the owner only if the owner substitutes alternate financial assurance as specified in this section or if he is no longer required to demonstrate financial responsibility in accordance with the requirements of paragraphs F.1.b, F.2.b, or F.3.b of this rule.

(b) Surety Bond Guaranteeing Payment or Performance.

(1) An owner may demonstrate financial assurance for closure or post-closure care by obtaining a payment or performance surety bond which conforms to the requirements of this paragraph. An owner may demonstrate financial assurance for corrective action by obtaining a performance bond which conforms to the requirements of this paragraph. The bond must be effective before the initial receipt of waste in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of paragraph D.8. of this rule. The owner must notify the Department

that a copy of the bond has been placed in the operating record. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The penal sum of the bond must be in an amount at least equal to the current closure, post-closure care or corrective action cost estimate, whichever is applicable, except as provided in paragraph F.4.j of this rule.

(3) Under the terms of the bond, the surety will become liable on the bond obligation when the owner fails to perform as guaranteed by the bond.

(4) The owner must establish a standby trust fund. The standby trust fund must meet the requirements of paragraph F.4.a of this rule except the requirements for initial payment and subsequent annual payments specified in paragraphs F.4.(a)(2), F.4.(a)(3), F.4.(a)(4) and F.4.(a)(5) of this rule.

(5) Payments made under the terms of the bond will be deposited by the surety directly into the standby trust fund. Payments from the trust fund must be approved by the trustee.

(6) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and to the Department 120 days in advance of cancellation. If the surety cancels the bond, the owner must obtain alternate financial assurance as specified in this section.

(7) The owner may cancel the bond only if alternate financial assurance is substituted as specified in this section or if the owner is no longer required to demonstrate financial responsibility in accordance with paragraphs F.1.b, F.2.b or F.3.b of this rule.

(c) Letter of Credit.

(1) An owner may satisfy the requirements of this rule by obtaining an irrevocable standby letter of credit, which conforms to the requirements of this paragraph. The letter of credit must be effective before the initial receipt of waste in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of paragraph D.8 of this rule. The owner must notify the Department that a copy of the letter of credit has been placed in the operating record. The issuing institution must be an entity,

which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State of Mississippi agency.

(2) A letter from the owner referring to the letter of credit by number, issuing institution, and date, and providing the following information: name, and address of the facility, and the amount of funds assured, must be included with the letter of credit in the operating record.

(3) The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to the current cost estimate for closure, post-closure care or corrective action, whichever is applicable, except as provided in paragraph F.4.j of this rule. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by sending notice of cancellation by certified mail to the owner and to the Department 120 days in advance of cancellation. If the letter of credit is canceled by the issuing institution, the owner must obtain alternate financial assurance.

(4) The owner may cancel the letter of credit only if alternate financial assurance is substituted as specified in this section or if the owner is released from the requirements of this rule in accordance with paragraphs F.1.b, F.2.b or F.3.b of this rule.

(d) Insurance.

(1) An owner may demonstrate financial assurance for closure and post-closure care by obtaining insurance, which conforms to the requirements of this paragraph. The insurance must be effective before the initial receipt of waste. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in the State of Mississippi. The owner must notify the Department that a copy of the insurance policy has been placed in the operating record.

(2) The closure or post-closure care insurance policy must guarantee that funds will be available to close the MSWLF unit or other landfill whenever final closure occurs or to provide post-closure care for the MSWLF unit or other landfill whenever the post-closure care period begins, whichever is applicable. The policy must also guarantee that once closure or post-closure care begins, the insurer will be responsible for the paying out of funds to the owner or other person authorized to conduct closure or

post-closure care, up to an amount equal to the face amount of the policy.

(3) The insurance policy must be issued for a face amount at least equal to the current cost estimate for closure or post-closure care, whichever is applicable, except as provided in paragraph F.4.a. of this rule. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) An owner, or any other person authorized to conduct closure or post-closure care, may receive reimbursements for closure or post-closure expenditures, whichever is applicable. Requests for reimbursement will be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or post-closure care, and if justification and documentation of the cost is placed in the operating record. The owner must notify the Department that the documentation of the justification for reimbursement has been placed in the operating record and that reimbursement has been received.

(5) Each policy must contain a provision allowing assignment of the policy to a successor owner. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

(6) The insurance policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner and to the Department 120 days in advance of cancellation. If the insurer cancels the policy, the owner must obtain alternate financial assurance as specified in this section.

(7) For insurance policies providing coverage for post-closure care, commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(8) The owner may cancel the insurance policy only if alternate financial assurance is substituted as specified in this section or if the owner is no longer required to demonstrate financial responsibility in accordance with the requirements of paragraphs F.1.b, F.2.b or F.3.b of this rule.

(e) Corporate Financial Test

An owner may satisfy the requirements of this rule by demonstrating financial assurance up to the amount specified in this section:

(1) Financial component.

(i) The owner must satisfy one of the following three conditions:

(A) A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's;

(B) A ratio of less than 1.5 comparing total liabilities to net worth; or

(C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10 million, to total liabilities.

(ii) The tangible net worth of the owner must be greater than:

(A) The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees, covered by a financial test plus $10 million except as provided in paragraph F.4.e.1.ii.B of this rule.

(B) $10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's audited financial statements, and subject to the approval of the State Director.

(iii) The owner must have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test as described in paragraph F.4.e.3 of this rule.

(2) Recordkeeping and Reporting Requirements.

(i) The owner or operator must place the following items into the facility's operating record:

(A) A letter signed by the owner's chief financial officer that:

(1) Lists all the current cost estimates covered by a financial test, including, but not limited to, cost estimates required for municipal solid waste management facilities under these regulations, cost estimates required for UIC facilities under 40 CFR part 144, if applicable, cost estimates required for petroleum underground storage tank facilities under 40 CFR part 280, if applicable, cost estimates required for PCB storage facilities under 40 CFR part 761, if applicable, and cost estimates required for hazardous waste treatment, storage, and disposal facilities under 40 CFR parts 264 and 265, if applicable; and

(2) Provides evidence demonstrating that the firm meets the conditions of either paragraph F.4.e.1.i.A or F.4.e.1.i.B or F.4.e.1.i.C of this rule and paragraphs F.4.e.1.ii and F.4.e.1.iii of this rule.

(B) A copy of the independent certified public accountant's unqualified opinion of the owner's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence.

The Director of an approved State may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Director deems that the matters which form the basis for the qualification are insufficient to warrant disallowance of the test. If the Director of an approved State does not allow use of the test, the owner must provide alternate financial assurance that meets the requirements of this rule.

(C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that owner satisfies paragraph F.4.e.(1)(i)(B) or F.4.e.(1)(i)(C) of this rule that are different from data in the audited financial statements referred to in paragraph F.4.e.(2)(i)(B) of this rule or any other audited financial statement or data filed with the SEC, then a special report from the owner's independent certified public accountant to the owner is required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial_statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

(D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations as provided in paragraph F.4.e.(1)(ii)(B) of this rule, then the letter shall include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least $10 million plus the amount of any guarantees provided.

(ii) An owner must place the items specified in paragraph F.4.e.(2)(i) of this rule in the operating record and notify the State Director that these items have been placed in the

operating record before the initial receipt of waste in the case of closure, and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of paragraph D.8 of this rule.

(iii) After the initial placement of items specified in paragraph F.4.e.2(i) of this rule in the operating record, the owner must annually update the information and place updated information in the operating record within 90 days following the close of the owner's fiscal year. The Director of a State may provide up to an additional 45 days for an owner who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in paragraph F.4.e.(2)(i) of this rule.

(iv) The owner is no longer required to submit the items specified in this paragraph F.4.e.(2) or comply with the requirements of this rule when:

(A) He substitutes alternate financial assurance as specified in this section that is not subject to these recordkeeping and reporting requirements; or

(B) He is released from the requirements of this rule in accordance with paragraphs F.1.b, F.2.b or F.3.b of this rule.

(v) If the owner no longer meets the requirements of paragraph F.4.e.(1) of this rule, the owner must, within 120 days following the close of the owner's fiscal year, obtain alternative financial assurance that meets the requirements of this rule, place the required submissions for that assurance in the operating record, and notify the State Director that the owner no longer meets the criteria of the financial test and that alternate assurance has been obtained.

(vi) The Director of an approved State may, based on a reasonable belief that the owner or operator may no longer meet the requirements of paragraph F.4.e.(1) of this rule, require at any time the owner to provide reports of its financial condition in addition to or including current financial test documentation as specified in paragraph F.2.e.(2) of this rule. If the Director of an approved State

finds that the owner no longer meets the requirements of paragraph F.4.e.(1) of this rule, the owner must provide alternate financial assurance that meets the requirements of this rule.

(3) Calculation of costs to be assured. When calculating the current cost estimates for closure, post-closure care, corrective action, or the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test referred to in this section, the owner must include cost estimates required for municipal solid waste management facilities under this part, as well as cost estimates required for the following environmental obligations, if it assures them through a financial test: obligations associated with UIC facilities under 40 CFR part 144, petroleum underground storage tank facilities under 40 CFR part 280, PCB storage facilities under 40 CFR part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR parts 264 and 265.

(f) Local Government Financial Test.

An owner may satisfy the requirements of paragraphs F.4.f.(1) through F.4.f.(3) of this rule by demonstrating financial assurance up to the amount specified in paragraph F.4.f.(4) of this rule:

(1) Financial component.

(i) The owner must satisfy paragraph F.4.f.(1)(i)(A) or (B) of this rule as applicable:

(A) If the owner has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's on all such general obligation bonds; or

(B) The owner must satisfy each of the following financial ratios based on the owner's most recent audited annual financial statement:

(1) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

(2) A ratio of annual debt service to total expenditures less than or equal to 0.20.

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

(iii) A local government is not eligible to assure its obligations under paragraph F.4.f of this rule, if it:

(A) Is currently in default on any outstanding general obligation bonds; or

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

(C) Operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or

(D) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate State agency) auditing its financial statement as required under paragraph F.4.(f)(1)(ii) of this rule. However, the Director of an approved State may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Director deems the qualification insufficient to warrant disallowance of use of the test.

(iv) The following terms used in this paragraph are defined as follows:

(A) Deficit equals total annual revenues minus total annual expenditures;

(B) Total revenues include revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party;

(C) Total expenditures include all expenditures excluding capital outlays and debt repayment;

(D) Cash plus marketable securities is all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions; and

(E) Debt service is the amount of principal and interest due on a loan in a given time period, typically the current year.

(2) Public notice component. The local government owner must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR) prior to the initial receipt of waste at the facility. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of paragraph D.8 of this rule. For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18 assures compliance with this public notice component.

(3) Recordkeeping and Reporting Requirements.

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

(A) A letter signed by the local government's chief financial officer that:

(1) Lists all the current cost estimates covered by a financial test, as described in paragraph F.4.f.(4) of this rule;

(2) Provides evidence and certifies that the local government meets the conditions of paragraphs F.4.f.(1)(i), F.4.f.(1)(ii), and F.4.f.(1)(iii) of this rule; and

(3) Certifies that the local government meets the conditions of paragraphs F.2.f.(2) and F.4.f.(4) of this rule.

(B) The local government's independently audited year-end financial statements for the latest fiscal year (except for local governments where audits are required every two years where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent, certified public accountant or an appropriate State agency that conducts equivalent comprehensive audits;

(C) A report to the local government from the local government's independent certified public accountant (CPA) or the appropriate State agency based on performing an agreed upon procedures engagement relative to the financial ratios required by paragraph F.4.f(1)(i)(B) of this rule, if applicable, and the requirements of paragraphs F.4.f(1)(ii) and F.4.f.(1)(iii)(C)and(D) of this rule. The CPA or State agency's report should state the procedures performed and the CPA or State agency's findings; and

(D) A copy of the comprehensive annual financial report (CAFR) used to comply with paragraph F.4.f.(2) of this rule or certification that the requirements of General Accounting Standards Board Statement 18 have been met.

(ii) The items required in paragraph F.4.f.(3)(i) of this rule must be placed in the facility operating record as follows:

(A) In the case of closure and post-closure care, prior to the initial receipt of waste at the facility; or

(B) In the case of corrective action, not later than 120 days after the corrective action remedy is selected in

accordance with the requirements of paragraph D.8 of this rule.

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

(iv) The local government owner is no longer required to meet the requirements of paragraph F.4.f.(3) of this rule when:

(A) The owner substitutes alternate financial assurance as specified in this section; or

(B) The owner is released from the requirements of this rule in accordance with paragraphs F.1.b, F.2.b, or F.3.b of this rule.

(v) A local government must satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test it must, within 210 days following the close of the owner fiscal year, obtain alternative financial assurance that meets the requirements of this rule, place the required submissions for that assurance in the operating record, and notify the State Director that the owner no longer meets the criteria of the financial test and that alternate assurance has been obtained.

(vi) The Director of an approved State, based on a reasonable belief that the local government owner may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the Director of an approved State finds, on the basis of such reports or other information, that the owner no longer meets the requirements of the local government financial test, the local government must provide alternate financial assurance in accordance with this section.

(4) Calculation of costs to be assured. The portion of the closure, post-closure, and corrective action costs for which an owner can assure under this paragraph is determined as follows:

(i) If the local government owner does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.

(ii) If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure under this paragraph. The total that may be assured must not exceed 43 percent of the local government's total annual revenue.

(iii) The owner must obtain an alternate financial assurance instrument for those costs that exceed the limits set in paragraphs F.4.f.(4) (i) and (ii) of this rule.

(g) Corporate Guarantee

(1) An owner may meet the requirements of this rule by obtaining a written guarantee. The guarantor must be the direct or higher-tier parent corporation of the owner, a firm whose parent corporation is also the parent corporation of the owner, or a firm with a "substantial business relationship" with the owner. The guarantor must meet the requirements for owners in paragraph F.4.e of this rule and must comply with the terms of the guarantee. A certified copy of the guarantee must be placed in the facility's operating record along with copies of the letter from the guarantor's chief financial officer and accountants' opinions. If the guarantor's parent corporation is also the parent corporation of the owner, the letter from the guarantor's chief_financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

(2) The guarantee must be effective and all required submissions placed in the operating record before the initial receipt of waste or before the effective date of the requirements of this rule, in the case of closure and post-closure care, or in the case of corrective action no later than 120 days after the_corrective action remedy has

been selected in accordance with the requirements of paragraph D.8 of this rule.

(3) The terms of the guarantee must provide that:

(i) If the owner fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

(A) Perform, or pay a third party to perform, closure, post-closure care, and/or corrective action as required (performance guarantee); or

(B) Establish a fully funded trust fund as specified in paragraph F.4.a of this rule in the name of the owner (payment guarantee).

(ii) The guarantee will remain in force for as long as the owner must comply with the applicable financial assurance requirements of this Subpart unless the guarantor sends prior notice of cancellation by certified mail to the owner and to the State Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner and the State Director, as evidenced by the return receipts.

(iii) If notice of cancellation is given, the owner must, within 90 days following receipt of the cancellation notice by the owner and the State Director, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the State Director. If the owner fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within 120 days of the cancellation notice, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the State Director.

(4) If a corporate guarantor no longer meets the requirements of paragraph F.4.g.1 of this rule, the owner or operator must, within 90 days, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the State Director. If the owner fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

(5) The owner is no longer required to meet the requirements of this paragraph F.4.g when:

(i) The owner substitutes alternate financial assurance as specified in this section; or

(ii) The owner is released from the requirements of this rule in accordance with paragraphs F.1.b, F.2.b or F.3.b of this rule.

(h) Local Government Guarantee.

An owner may demonstrate financial assurance for closure, post-closure, and corrective action, as required by paragraphs F.1.b, F.2.b, and F.3.b of this rule by obtaining a written guarantee provided by a local government. The guarantor must meet the requirements of the local government financial test in paragraph F.4.f of this rule, and must comply with the terms of a written guarantee.

(1) Terms of the written guarantee. The guarantee must be effective before the initial receipt of waste or before the effective date of this rule, whichever is later, in the case of closure, post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of paragraph D.8 of this rule. The guarantee must provide that:

(i) If the owner fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

(A) Perform, or pay a third party to perform, closure, post-closure care, and/or corrective action as required; or

(B) Establish a fully funded trust fund as specified in paragraph F.4.a of this rule in the name of the owner.

(ii) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner and to the State Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner and the State Director, as evidenced by the return receipts.

(iii) If a guarantee is cancelled, the owner must, within 90 days following receipt of the cancellation notice by the owner and the State Director, obtain alternate financial assurance, place evidence of that alternate financial_assurance in the facility operating record, and notify the State Director. If the owner fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the State Director.

(2) Recordkeeping and Reporting.

(i) The owner must place a certified copy of the guarantee along with the items required under paragraph F.4.f.(3) of this rule into the facility's operating record before the initial receipt of waste or before the effective date of this rule, whichever is later, in the case of closure, post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of paragraph D.8 of this rule.

(ii) The owner is no longer required to maintain the items specified in paragraph F.4.h(2) of this rule when:

(A) The owner substitutes alternate financial assurance as specified in this section; or

(B) The owner is released from the requirements of this rule in accordance with paragraphs F.1.b, F.2.b or F.3.b of this rule.

(iii) If a local government guarantor no longer meets the requirements of paragraph F.4.f of this rule, the owner, must, within 90 days, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the State Director. If the owner fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

(i) Other Mechanisms. An owner may satisfy the requirements of this rule by providing evidence of financial assurance through the use of any mechanism that is adopted by the U.S. Environmental Protection Agency under Part 258, Subpart G, of Title 40 of the Code of Federal Regulations,

or any other mechanism that meets the criteria specified in paragraph F.4.k of this rule and that is approved by the Commission.

(j) Use of Multiple Financial Mechanisms. An owner may satisfy the requirements of this rule by establishing more than one financial mechanism per facility. The mechanisms must be as specified in paragraphs F.4.a through F.4.i of this rule, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care or corrective action, whichever is applicable. The financial test and a guarantee provided by a corporate parent, sibling, or grandparent may not be combined if the financial statements of the two firms are consolidated.

(k) The language of the mechanisms listed in paragraphs F.4.a through F.4.i of this rule must ensure that the instruments satisfy the following criteria:

(1) the financial assurance mechanisms must ensure that the amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action for known releases when needed;

(2) the financial assurance mechanisms must ensure that funds will be available in a timely fashion when needed;

(3) the financial assurance mechanisms must be obtained by the owner by the effective date of these regulations in the case of closure and post-closure care, and no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of paragraph D.8. of this rule, until the owner is released from the financial assurance requirements under paragraphs F.1, F.2 and F.3 of this rule; and

(4) the financial assurance mechanisms must be legally valid, binding, and enforceable under State of Mississippi and Federal law.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 21-27-201, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 1.5 Transfer Station, Storage, Collection, And Transportation Requirements.

A. Transfer Station Permit Requirements

(1) An individual permit or a certificate of coverage under a general permit is required for the operation of a transfer station. The individual permit or certificate

of coverage under any applicable general permit must be issued prior to the receipt of any waste.

(2) An applicant for a new transfer station shall complete an application for coverage under any applicable general permit or for an individual permit on forms provided by the Department. Such submittal shall demonstrate that the transfer station will comply with all applicable requirements of Rules 1.2, 1.3 and 1.5 of these regulations and the terms and conditions of a general permit or an individual permit.

(3) Owners of existing transfer stations, which have been previously issued an individual permit, may request that their permit be revoked and that they be issued a certificate of coverage under any applicable general permit. Likewise, owners of existing transfer stations, which have been previously issued a certificate of coverage under a general permit, may request that their certificate of coverage be revoked and that they be issued an individual permit.

B. Transfer Stations shall be operated in accordance with the following requirements as well as the general requirements of Rule 1.5.C of these regulations:

(1) Access to a transfer station shall not be allowed to the general public unless an attendant is on-site at all times the facility is open.

(2) Unless a transfer station is operated within an enclosed building, a wood or wire fence shall be constructed around the facility for the purpose of preventing any windblown litter from escaping the property. The Department may grant a waiver from this requirement if the applicant demonstrates to the satisfaction of the Department another acceptable method of containing the litter.

(3) Litter shall be collected at the end of each operating day or as necessary to keep the property reasonably clean.

(4) Open burning of solid waste, except for land clearing debris generated on the site of the facility, shall be prohibited at a transfer station.

(5) Transfer stations, which accept household garbage or other putrescible wastes, must be designed to contain all off-loading and storage of solid wastes within a walled and roofed structure that will prevent windblown litter, stormwater contact and unauthorized discharge of leachate and contaminated stormwater. An alternate design may be approved by the Department upon sufficient demonstration by the owner that the alternate design will prevent windblown litter and will adequately collect and contain leachate and contaminated stormwater.

(6) All garbage and other putrescible waste must be removed at least once per week or more frequently where necessary to maintain sanitary conditions at the site.

(7) Requirements for Tipping Floor Transfer Stations

(a) All tipping floors and other related equipment shall be washed down or otherwise cleaned a minimum of once per day to reduce odors and to maintain appropriate sanitary working conditions.

(b) All tipping floor and equipment washwater shall be collected and properly disposed of according to the applicable wastewater regulations of the Commission on Environmental Quality.

(8) All solid waste transported from a transfer station must be delivered to an authorized waste disposal facility or to another facility acceptable to the Department.

C. Storage, Collection, and Transportation

(1) All solid waste shall be stored in such a manner that it does not constitute a fire, safety or health hazard or provide food or harborage for animals and vectors, and shall be contained or bundled so as not to result in litter. It shall be the responsibility of the occupant of a residence or the owner or manager of an establishment to utilize a storage system that will include containers of adequate size and strength, and in sufficient numbers, to contain all solid waste that the residence or other establishment generates in the period of time between collections. The owner or, if leased, the lessee of the storage containers shall be responsible for compliance with this requirement.

(2) Solid waste containing putrescible materials shall be collected and transported to a disposal facility at a frequency adequate to prevent propagation and attraction of vectors and the creation of a public health nuisance.

(3) All vehicles and equipment used for the collection and transportation of a solid waste shall be constructed, operated and maintained to prevent loss of liquids or solid waste material, and to minimize health and safety hazards to solid waste management personnel and the public. Collection vehicles and equipment shall be maintained in a sanitary condition to preclude odors and fly-breeding.

(4) Areas where solid wastes are spilled during collection and/or transportation shall be promptly cleaned and remediated.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 1.6 Rubbish Site Requirements.

A. (1) An individual permit or a certificate of coverage under a general permit is required for the operation of a rubbish site. The individual permit or certificate of coverage must be issued prior to the receipt of any waste at the site.

(2) An applicant for a new rubbish site shall complete an application for coverage under any applicable general permit or an application for an individual permit on forms provided by the Department. Such submittal shall demonstrate that the facility will comply with all applicable requirements of Rules 1.2, 1.3 and 1.6 of these regulations and the terms and conditions of a general permit or an individual permit.

(3) Owners of existing rubbish sites, which have been issued an individual permit, may request that their permit be revoked and that they be issued a certificate of coverage under any applicable general permit. Likewise, owners of existing rubbish sites, which have previously issued a certificate of coverage under a general permit, may request that their certificate of coverage be revoked and that they be issued an individual permit.

B. A Class I Rubbish Site may receive the following wastes for disposal:

(1) construction and demolition debris, such as wood, metal, etc.

(2) brick, mortar, concrete, stone, and asphalt

(3) cardboard boxes

(4) natural vegetation, such as tree limbs, stumps, and leaves.

(5) appliances (other than refrigerators and air conditioners) which have had the motor removed

(6) furniture

(7) plastic, glass, crockery, and metal, except containers

(8) sawdust, wood shavings, and wood chips

(9) other similar wastes specifically approved by the Department.

C. A Class II Rubbish Site may receive the following wastes for disposal:

(1) natural vegetation, such as tree limbs, stumps, and leaves

(2) brick, mortar, concrete, stone, and asphalt

(3) other similar rubbish specifically approved by the Department.

D. The following wastes shall be prohibited from disposal at all rubbish sites:

(1) any acceptable waste which has been contaminated by a pollutant, such as a food or chemical, unless it can be demonstrated to the satisfaction of the Department that such waste has no adverse effect on the environment.

(2) household garbage and other food and drink waste

(3) liquids, sludges, and contaminated soils

(4) paint, paint buckets, oil containers and chemical containers

(5) engines, motors, whole tires, and all types of batteries

(6) toxic or hazardous waste

(7) regulated asbestos and asbestos containing material originating from a facility, as defined by the National Emission Standards for Hazardous Air Pollutants (40 CFR 61, Subpart M)

(8) medical waste

(9) bulk fabric and paper loads, refrigerators, air conditioners, cut or shredded tires, and any metal, glass, plastic, or paper container, unless specifically approved by the Department. The Department shall consider the characteristics of the waste, the operating plan of the site, and other site specific conditions in determining the acceptability of any such waste

(10) other waste which are specifically determined by the Department to have an adverse effect on the environment.

E. Class I and Class II Rubbish Sites shall be operated in accordance with the following requirements:

(1) Prior to the disposal of any solid waste, all borings drilled on site in preparation of the permit application, which will not be converted to monitoring or supply wells, shall be properly sealed in accordance with the requirements of the Office of Land and Water Resources.

(2) Adequate security and monitoring shall be established and maintained to prevent uncontrolled access and disposal. An attendant shall be on duty at any time access to the site is unsecured.

(3) Disposal of waste shall be limited to wastes described in applicable paragraph B. or C. of this rule.

(4) Disposal activity shall be restricted to the area defined in the approved application. The disposal area boundaries shall be located and clearly marked by a land surveyor licensed by the State of Mississippi. At a minimum, the corners of the disposal area shall be marked. The markers shall be a minimum, 3-foot high concrete posts, metal pipes, weather resistant wood posts or other suitable markers approved by the Department. The markers shall be placed in the ground to a sufficient depth to facilitate permanence and shall be maintained by the owner. Markers that become damaged shall be promptly re-established by the owner with the assistance of a licensed land surveyor, where necessary.

(5) Prior to the unloading and disposal of each waste load, the facility operator or a designated, trained spotter shall visually inspect each waste load and remove any unauthorized wastes from the load. Incoming waste loads that contain significant amounts of unauthorized wastes shall be refused disposal at the facility. Incidental amounts of unauthorized wastes identified after waste unloading shall be immediately removed from the disposal area. All unauthorized wastes removed from incoming loads and/or the disposal area shall be collected and properly disposed at an authorized disposal facility.

(6) a liner must be constructed at a facility, in whole or in part, as specified in the approved application, at least two weeks prior to disposal in the area, a construction quality assurance report shall be submitted to the Department. The report shall contain a certification from an independent professional engineer registered in Mississippi that the construction of the area was performed in accordance with the plans as stated in the approved application. Construction of the liner may be accomplished at one time with one certification, or in stages, each with a separate certification, as stated in the approved application.

(7) A periodic cover consisting of a minimum of six inches of earthen material shall be applied to the wastes at least every two weeks. The Department may alter the frequency of cover depending upon the amount or type of wastes received, the location of the site, and other conditions.

(8) Rubbish shall be managed so that it shall not become windblown or attract vectors.

(9) Windblown and scattered litter and debris shall be collected from around the entire facility at the end of every operating day and returned to the active working area for proper disposal.

(10) Open burning of solid waste, except for land clearing debris generated on the site of the facility, shall be prohibited. Open burning of land clearing debris shall be conducted in accordance with Title 11, Part 2, Chapter 1, Rule 1.3.G. of the "Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants." (Title 11, Part 2, Chapter 1).

(11) An adequate supply of water under pressure at the site or an adequate stockpile of earthen material reasonably close to the disposal area shall be provided, or there shall be a nearby, organized Fire Department providing service when called. The Department may approve alternate methods of fire protection or waive this requirement when there is no need for fire protection. Should an accidental fire occur, the owner shall immediately take action to extinguish the fire and shall notify the Department by the close of the Department's next business day.

(12) Rubbish shall not be disposed in standing water nor in any manner that may result in washout of waste. Furthermore, the active disposal area shall not be located or constructed in a manner that causes or allows wastes to come into contact with the seasonal high water table.

(13) A rubbish site shall be developed and contoured to direct run-on and/or runoff away from the active disposal area and to prevent ponding of water in and over areas of waste disposal.

(14) Unloading and disposal of rubbish shall be controlled by the owner and shall be confined to as small an area as practical.

(15) Each commercial class I rubbish site must be operated by a person who holds a current certificate of competency issued by the Commission in accordance with Rule 8.3.(B) of the Regulations for the Certification of Operators of Solid Waste Disposal Facilities. Such person must have direct supervision over and be personally responsible for the daily operation and maintenance of the rubbish site.

In the event of the temporary loss of a certified operator due to illness, death, discharge, or other legitimate cause, written notice shall be given to the Department within 7 days. Continued operation of such system without a certified operator may proceed on an interim basis for a period not to exceed 180 days, except for good cause shown upon petition to the Commission.

(16) The owner of a rubbish site must keep an accurate written daily record of deliveries of solid waste to the facility including but not limited to: the name of the hauler, the source of the waste, the types of waste received and the weight of solid waste measured in tons received at the facility. For those facilities that do not have access to weight scales, the weight should be converted to tons from cubic yards using conversion factors as developed or approved by the Department. A copy of these records must be maintained by the owner at the rubbish site or at another site approved by the Department. The records shall be made available to the Department for inspection, upon request.

(17) The owner of a rubbish site shall submit an annual report to the Department each year no later than February 28th, to include information regarding the facility for the preceding calendar year. At a minimum, the report shall contain the following:

(a) the total amount of waste received during the calendar year, in units of tons, and the source of wastes listed by county of origin with a clear indication of wastes originating from out-of-state counties.

(b) estimated remaining capacity at the facility, in terms of acreage, or cubic yards, and years remaining; and

(c) if the owner of the facility or the contract operator of the facility is a private concern, an updated disclosure statement. If all information from the previously submitted disclosure statement is unchanged, a letter stating such may be included in lieu of an updated disclosure statement.

(18) Within 30 days of completing an area, at least two feet of a low permeable earthen cover shall be applied as final cover. Following soil placement, suitable vegetation shall be promptly established and maintained. Any erosion occurring on completed areas shall be promptly repaired. Any area containing waste materials, which has not received waste in the past twelve (12) months, shall be covered in accordance with this paragraph.

(19) The final cover gradient on a rubbish site shall be a minimum of four percent (4%) and a maximum of twenty-five percent (25%), unless otherwise approved by the Department.

(20) The owner shall notify the Department within 14 days upon final closure of the site.

(21) The owner shall comply with any additional requirements included in the permit.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 21-27-201, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 1.7 Processing Facility Requirements.

A. (1) An individual permit or a certificate of coverage of a general permit is required for the operation of a processing facility. An individual permit or certificate of coverage under any applicable general permit must be issued prior to the receipt of any waste.

(2) An applicant for a new processing facility shall complete an application for coverage under any applicable general permit or an individual permit on forms provided by the Department. Such submittal shall demonstrate that the facility will comply with all applicable requirements of Rules 1.2, 1.3, and 1.7 of these regulations and the terms and conditions of a general permit or an individual permit.

(3) Owners of existing processing facilities, which have been issued an individual permit, may request that their permit be revoked and that they be issued a certificate of coverage under any applicable general permit. Likewise, owners of existing processing facilities, which have been previously issued a certificate of coverage under a general permit may request that their certificate of coverage be revoked and that they be issued an individual permit.

B. Processing facilities shall comply with all applicable federal and state air emission and wastewater discharge laws and regulations.

C. Surface drainage in and around the facility shall be controlled to minimize surface water runoff onto, into, and off the treatment area.

D. Any liquids accumulated at the facility, including leachate, washwater, or contaminated rainfall runoff, shall be controlled in a manner that will prevent obnoxious odors and pollution of waters of the State.

E. Processing facilities shall be operated in manner that ensures the health, safety, and aesthetic aspects of a community are not endangered by the location and operation of the facility. Depending on the specific solid waste handling or processing operation involved, several of the operational standards prescribed for solid waste landfill sites may be applicable and shall be followed, if appropriate.

F. The facility shall not accumulate solid waste in quantities that cannot be processed within such times as will preclude the creation of objectionable off-site odors, fly-breeding, or harborage of other vectors. If such accumulations occur, additional solid waste shall not be received until the adverse conditions are abated.

G. If a significant work stoppage should occur at a solid waste processing facility, due to a mechanical breakdown or other cause and is anticipated to last long enough to create objectionable odors, fly-breeding, or harborage of vectors, steps shall be taken to remove the accumulated solid waste from the site to an approved alternate back-up processing or disposal facility.

H. When processing putrescible wastes, all working surfaces that come in contact with wastes shall be washed down or otherwise cleaned as needed to prevent objectionable odors, vector breeding and harborage, nuisance conditions, or other unsanitary conditions.

I. If a facility is not completely enclosed, wire or other type fencing or screening shall be provided when necessary to minimize windblown materials. Litter resulting from the operation shall be collected and returned to the processing area as frequently as necessary to minimize unsightly conditions and fire hazards.

J. Open burning of solid waste, except for land clearing debris generated on the site of the facility, shall be prohibited. An adequate supply of water under pressure at the site or an

adequate stockpile of earth reasonably close to the processing area shall be provided, or there shall be a nearby organized Fire Department providing service when called. The Department may approve alternate methods of fire protection or waive this requirement when there is no need for fire protection. Should an accidental fire occur, the owner shall immediately take action to extinguish the fire and shall promptly notify the Department.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 1.8 Land Application Requirements.

A. (1) Except as provided for in Rule 1.1.B, an individual permit or a certificate of coverage of a general permit is required for the operation of a land application site. An individual permit or certificate of coverage under any applicable general permit must be issued prior to the receipt of any waste.

(2) An applicant for a new land application site shall complete an application for coverage under any applicable general permit or for an individual permit on forms provided by the Department. Such submittal shall demonstrate that the facility will comply with all applicable requirements of Rules 1.2, 1.3, and 1.8 of these regulations and the terms and conditions of a general permit or an individual permit.

(3) Owners of existing land application sites, which have been issued an individual permit, may request that their permit be revoked and that they be issued a certificate of coverage under any applicable general permit. Likewise, owners of existing land application sites, which have been previously issued a certificate of coverage under a general permit, may request that their certificate of coverage be revoked and that they be issued an individual permit.

B. No waste shall be placed on saturated grounds. Saturation may be determined by digging a hole one-foot deep at the lowest point of the ground and observing for 30 minutes. If water appears in the hole, the soil is considered to be saturated.

C. Land application sites shall be located in a hydrologic section where the historic high water table is at a safe depth below the zone of incorporation.

D. The application area shall be located a minimum of 300 feet from any inhabited building unless the applicant can justify otherwise. Furthermore, the Department may require larger buffer zones when circumstances warrant.

E. Land application of wastes shall be conducted by incorporation into the soil, by injection below the land surface, or by other appropriate means of application, as approved by the Department. Incorporation should normally be accomplished by applying the wastes uniformly and_disking or plowing until the waste is adequately turned under the soil or thoroughly mixed with the soil. Incorporation shall be accomplished during or

immediately following application.

F. Wastes which contain significant amounts of nitrogen shall be applied at an agronomic rate not to exceed the plant available nitrogen levels specified in Table 1 of this rule, unless data can be presented to justify otherwise.

G. The soil pH shall be maintained at or above 6.5 unless otherwise authorized by the Department.

H. The annual loading rate for cadmium shall not exceed 0.45 pounds/acre/year.

I. The cumulative (life-time) application of pollutants shall not exceed the levels specified in Table 2 of this rule or where applicable, the levels specified in 40 CFR 503.

J. In addition to the requirements in these regulations, land application of sewage sludge must be conducted in a manner which complies with 40_CFR 503 - Standards for the Use and Disposal of Sewage Sludge, which are incorporated herein and adopted by reference.

K. Where sewage sludge is applied to public contact sites, access to the facility shall be controlled to restrict unauthorized personnel during operation and for at least 12 months following final application.

L. Where sludge is applied, grazing by animals shall be restricted during operation and for 30 days thereafter.

M. Prior to land application, sewage sludges and other pathogen-containing sludges shall be treated by a process to significantly reduce pathogens (PSRP) or by a process to further reduce pathogens (PFRP). The PSRP's and PFRP's are listed in Table 3 of this rule.

N. Where sludge is applied, no crops that will be consumed raw by humans shall be planted until at least 18 months have passed from the date of the last application. For all other crops grown for indirect human consumption, at least 30 days shall pass between the date of the last application and the date the crop is planted.

O. Limitations may be placed on the loading rates of other contaminants when necessary to protect the environment and public health.

P. Where the permit applicant and the solid waste generator are not the same person, the generator shall be responsible for ensuring that the waste characteristics are compatible with a safe disposal operation. Monitoring data, which characterizes the solid waste, shall be provided to the permittee by the generator on a regular basis as required by the permit. All other monitoring (groundwater, surface water, soils, etc.) shall be the responsibility of the permittee and shall be determined on a site-specific basis.

Q. If substances that may be deleterious to human health are placed on the land in amounts that are in excess of those established as acceptable for growing food chain crops, notice

of such shall be given to future landowners (via notice to the deed). When soil analyses show that such levels of contaminants are no longer present, the notice to future landowners shall not be required.

TABLE 1

MAXIMUM PLANT AVAILABLE NITROGEN LEVELS

TO BE APPLIED TO CROPLANDS

CROP	MAXIMUM P.A.N. LBS/AC/YR)
Bahia grass	160
Bermuda grass	300
Fescue	120
Grain sorghum	180
Silage sorghum	300
Millett	150
Rye grass	220
Alfalfa, clover, vetch	450
Cotton	180
Corn	240
Soybeans	300
Wheat	135

Other cover vegetation may be grown, if approved by the Department

.

TABLE 2

MAXIMUM CUMULATIVE POLLUTANT LOADING RATES TO BE APPLIED AT LAND APPLICATION SITES

Metals Loading Rates

		CEC* <5		CEC* 5-15		CEC* >15
	kg/ha	(lb/ac)	kg/ha	(lb/ac)	kg/ha	(lb/ac)
Lead (Pb)	500	(455)	1000	(890)	2000	(1780)
Zinc (Zn)	250	(222)	500	(445)	1000	(890)
Copper (Cu)	125	(111)	250	(222)	500	(445)
Nickel (Ni)	125	(111)	250	(222)	500	(445)
Cadmium (Cd)	5	(4.4)	10	(8.9)	20	(17.8)

*CEC - Cation Exchange Capacity, meq/100

TABLE 3

PROCESSES TO SIGNIFICANTLY REDUCE PATHOGENS (PSRP)

Aerobic Digestion: The process is conducted by agitating sludge with air or oxygen to maintain conditions at residence times ranging from 60 days at 15 °C to 40 days at 20 °C, with a volatile solids reduction of at least 38 percent.

Air Drying: Liquid sludge is allowed to drain and/or dry on under-drained sand beds, or paved or unpaved basins in which the sludge is at a depth of nine inches. A minimum of three months is needed, two months of which temperatures average on a daily basis above 0 °C.

Anaerobic Digestion: The process is conducted in the absence of air at residence time ranging from 60 days at 20 °C to 15 days at 35 - 55 °C, with a volatile solids reduction of at least 38 percent.

Composting: Using the within-vessel, static aerated pile or windrow composting methods, the solid waste is maintained at minimum operating conditions of 40 °C for 5 days. For four hours during this period the temperature exceeds 55 °C.

Lime Stabilization: Sufficient lime is added to produce a pH of 12 after 2 hours of contact.

Other Methods: Other methods or operating conditions may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

PROCESSES TO FURTHER REDUCE PATHOGENS (PFRP)

Composting: Using the within-vessel method, the solid waste is maintained at operating conditions of 55 °C or greater for three days. Using the static aerated pile conditions of 55 °C or greater for three days. Using the windrow composting method, the solid waste attains a temperature of 55 °C or greater for at least 15 days during the composting period. Also, during the high temperature period, there will be a minimum of five turnings of the windrow.

Heat Drying: De-watered sludge cake is dried by direct or indirect contact with hot gases, and moisture content is reduced to 10 percent or lower. Sludge particles reach temperatures well in excess of 80 °C, or the wet bulb temperature of the gas stream in contact with the sludge at the point where it leaves the dryer is in excess of 80 °C.

Heat Treatment: Liquid sludge is heated to temperatures of 180 °C for 30 minutes.

Thermophillic Aerobic Digestion: Liquid sludge is agitated with air or oxygen to maintain aerobic conditions at residence times of 10 days at 55 – 60 °C, with a volatile solids reduction of at least 38 percent.

Other Methods: Other methods or operating conditions may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the methods described above.

Any of the processes listed below, if added to one of the PSRP processes listed in this Table 3, may be acceptable as the Processes to Further Reduce Pathogens.

Beta Ray Irradiation: Sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (ca. 20 °C).

Gamma Ray irradiation: Sludge is irradiated with gamma rays from certain isotopes, such as 60 Cobalt and 137 Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20 °C).

Pasteurization: Sludge is maintained for at least 30 minutes at a minimum temperature of 70 °C.

Other Methods: Other methods or operating conditions may be acceptable if pathogens are reduced to an extent to the equivalent to the reduction achieved by any of the above methods.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 1.9 Composting Facility Requirements.

A. (1) An individual permit or a certificate of coverage under a general permit is required for the operation of a composting facility. The individual permit or certificate of coverage under any applicable general permit must be issued prior to the receipt of any waste.

(2) An applicant for a new composting facility shall complete a notification of intent for coverage under any applicable general permit or an application for an individual permit on forms provided by the Department. Such submittal shall demonstrate that the facility will comply with all applicable requirements of Rules 1.2, 1.3, and 1.9 of these regulations and the terms and conditions of a general permit or an individual permit.

(3) Owners of existing composting facilities, which have been issued an individual permit, may request that their permit be revoked and that they be issued a certificate of coverage under any applicable general permit. Likewise, owners of existing composting facilities which have been previously issued a certificate of

coverage under a general permit may request that their certificate of coverage be revoked and that they be issued an individual permit.

B. Requirements for facilities that receive only yard waste or rubbish.

(1) Access to the facility shall be closed to the general public unless an attendant is on site.

(2) Non-biodegradable bags, as well as all unauthorized waste materials, as determined by the Department, shall be removed from the compost and stored in appropriate containers for ultimate disposal or management at a facility approved by the Department.

(3) Open burning of solid waste, except for land clearing debris generated on the site of the facility, shall be prohibited. Immediate action shall be taken to extinguish any accidental fire and the Department shall be notified as soon as possible.

(4) Compost offered for use must be produced by a process that encompasses turning on a regular basis to aerate the waste, maintain temperatures, and/or reduce pathogens. Similar technologies that accomplish the same may also be considered by the Department.

(5) Surface water drainage shall be diverted around and away from the composting area and controlled to prevent any washing or escape of waste from the property. If the Department deems it necessary, a leachate collection and treatment system may be required.

(6) An annual report shall be submitted to the Department on or before February 28th of the following calendar year, which includes the following information:

(a) the facility name, address, and permit number;

(b) the total quantity, by weight or volume, of the waste received for composting;

(c) the total quantity, by weight or volume, of all residuals and recyclables separated from the waste or compost, and a description of how these materials were disposed or managed;

(d) the total quantity, by weight or volume, of the compost produced;

(e) the total quantity, by weight or volume, of the compost removed from the facility, and a description of how the compost was distributed or used; and,

(f) the remaining capacity for storage of compost at the facility based upon the amount of compost on site at the beginning of the year, the amount of compost produced, and the amount removed during the year.

C. Requirements for facilities that receive household garbage, wastewater sludge, animal wastes and manures and/or other solid waste with similar properties or characteristics, as determined by the Department.

(1) Design requirements:

(a) Specifications for site preparation must be included in the engineering design report developed for the site, such as clearing and grubbing, berm construction, drainage control structure, access roads, screening, fencing, etc.

(b) Surface water drainage shall be diverted around and away from the composting area and controlled to prevent any escape of waste from the property. Washdown water, leachate and any other contaminated water generated in the facility other than domestic wastewater shall be directed to sumps for use within the process. No discharge of contaminated water shall occur unless specifically allowed by the issuance of a wastewater permit.

(c) For facilities which process household garbage, the receiving area and the composting area must be covered with a roof capable of preventing rainfall from directly contacting the waste or compost. Final curing areas are not required to be roofed.

(2) Operational Requirements

(a) The individual(s) responsible for making the decisions critical to the composting process such as turning, wetting, screening, etc., shall have a knowledge of the biological processes at work and the expertise and knowledge capable of operating the facility in compliance with the requirements of this rules.

(b) All waste delivered to the facility must be confined to a designated delivery or receiving area. For facilities which receive household garbage, the waste must be processed within 72 hours or removed and disposed in another appropriate facility.

(c) Access to the facility shall be controlled by a permanent fence and gate or enclosed buildings. All access points shall be secured whenever the facility is not open for business or when no authorized personnel are on site.

(d) Residuals and recyclables shall be stored in a manner to prevent vector intrusion and aesthetic degradation. Appropriate steps shall be taken as necessary to alleviate any problems with flies, mosquitoes, or other vectors. Recyclables shall be removed at least annually; non-recyclable residuals shall be removed at least weekly.

(e) Unless the Permit Board authorizes different operating conditions based upon a sufficient demonstration that such conditions would result in a compost of equal or better quality, the following conditions shall apply:

(1) Where the windrow method of composting is utilized, a temperature of at least 55 °C must be maintained in the windrow for at least three weeks. Aerobic conditions must be maintained during the compost process. The windrow must be turned at least twice weekly during the three-week period.

(2) Where the static aerated pile method of composting is utilized, a temperature of at least 55 °C must be maintained for at least seven days. Aerobic conditions must be maintained during the compost process.

(3) Where the in-vessel method of composting is utilized, a retention time in the vessel must be at least 24 hours with the temperature maintained at 55 °C or higher. A stabilization period of at least seven days must follow the minimum retention period. Temperature in the compost pile must be maintained at least at 55 °C for at least three days during the stabilization period.

(3) Testing and Monitoring

(a) A composite sample of the compost produced shall be taken and analyzed at intervals of every 20,000 tons of compost produced or every three months, whichever comes first. At a minimum, the following tests shall be conducted:

Parameter	Units to be Expressed
Moisture	%
Total Nitrogen (as N)	% dry weight
Ammonia Nitrogen (as N)	% dry weight
Nitrate Nitrogen (as N)	% dry weight
Total Phosphorous	% dry weight
Total Potassium	% dry weight
Organic Matter	% dry weight

Reduction in Organic Matter	%
pH	standard units
Arsenic, Total	mg/kg dry weight
Arsenic, TCLP	ppm
Barium, Total	mg/kg dry weight
Barium, TCLP	ppm
Cadmium, Total	mg/kg dry weight
Cadmium, TCLP	ppm
Chromium, Total	mg/kg dry weight
Chromium, TCLP	ppm
Copper, Total	mg/kg dry weight
Lead, Total	mg/kg dry weight
Lead, TCLP	ppm
Mercury, Total	mg/kg dry weight
Mercury, TCLP	ppm
Nickel, Total	mg/kg dry weight
Selenium, Total	mg/kg dry weight
Selenium, TCLP	ppm
Silver, Total	mg/kg dry weight
Silver, TCLP	ppm
Zinc, Total	mg/kg dryweight

(b) In addition to the test parameters required in paragraph C.3.a of this rule where sewage sludge, animal manures and wastes or other similar wastes are composted, a fecal coliform count shall be conducted before and after composting.

(c) The Permit Board may require additional or fewer test parameters or may increase or decrease the frequency of analysis based upon the quantity or characteristics of the waste, the location of the facility, or other factors which the Permit Board deems relevant.

(d) Composite samples of the compost taken pursuant to this section shall consist of at least five individual samples of equal volume taken from separate areas along the side of each pile of compost. Each sampling point shall be at a depth of two feet into the pile from the outside surface.

(e) Analytical methods for all tests shall be approved by the U.S. Environmental Protection Agency or the Department.

(f) The Permit Board may require other monitoring activities such as groundwater and/or surface water monitoring.

(g) The reduction in organic matter required pursuant to paragraph D.1.b of this rule shall be determined by comparing the organic matter content of the feedstock and the organic matter content of the compost product, using the following calculation:

$$\% \text{ ROM} = [1- \frac{\text{OMP (100 - OMF)}}{\text{OMF (100 - OMP)}} \} \text{ X } 100$$

where % ROM = reduction in organic matter

OMF = % organic matter of the feedstock (before decomposition)

OMP = % organic matter of the compost product (after decomposition)

(4) Recordkeeping and Reporting.

(a) Records shall be maintained at the facility of the quantity of incoming waste, residuals and recyclables, and the quantity and quality of compost produced.

(b) Records of analytical testing and monitoring shall be maintained for a period of at least five (5) years, including:

(1) the date of measurement and the person measuring the quantity of incoming waste, residuals, recyclables, and compost produced, and the results thereof;

(2) the dates all analyses were performed;

(3) the person or contract lab who performed all analyses;

(4) the analytical techniques or methods used; and

(5) the results of all analyses.

(c) Records shall be available for inspection by Department personnel during normal business hours and shall be sent to the Department upon request.

(d) An annual report shall be submitted to the Department on or before February 28th of the following calendar year, which includes the following information:

(1) the facility name, address, and permit number;

(2) the total quantity in weight or volume of waste received at the facility;

(3) the total quantity in weight or volume of all residuals and recyclables separated from the waste or compost, and a description of how these materials were disposed or managed;

(4) the total quantity in tons (dry weight) or volume of waste processed for composting at the facility;

(5) the total quantity in tons (dry weight) or volume of compost produced at the facility;

(6) the total quantity in tons (dry weight) or volume of compost removed from the facility, and a description of how the compost was distributed, used, or disposed; and

(7) the remaining capacity for storage of compost at the facility based upon the amount of compost on site at the beginning of the year, the amount of compost produced, and the amount removed during the year.

D. Classification of Compost

(1) Compost shall be classified based upon the type of waste processed, product maturity, particle size, moisture content, and chemical quality.

(a) Types of waste processed shall include the following:

(1) yard waste or rubbish only;

(2) sewage sludge;

(3) animal manures and wastes,

(4) household garbage, or other solid waste.

(5) some combination of the above wastes

(b) Product maturity.

(1) Mature compost is a highly stabilized compost material that has been exposed to prolonged periods of decomposition. It will not reheat upon standing to greater than 20°C above ambient temperature. The material should be brown to black in color. This level of maturity is indicated by a reduction in organic matter of greater than 60%.

(2) Semi-mature compost is compost material that is at the mesophilic stage. It may reheat upon standing to greater than 20°C above ambient temperature. The material should be light to dark brown in color. This level of maturity is indicated by a reduction in organic matter of greater than or equal to 40% but less than or equal to 60%.

(3) Fresh compost is compost material that has not completed the thermophilic stage and has undergone only partial decomposition. The material will reheat upon standing to greater than 20°C above ambient temperature. The material is usually similar in texture and color to the feedstock of the composting process. This level of maturity is indicated by a reduction in organic matter of greater than or equal to 20% but less than or equal to 40%.

(c) Particle size.

(1) Fine compost is compost that will pass a 10mm screen.

(2) Coarse compost is compost that will not pass a 10mm screen, but will pass a 25mm screen.

(3) Material, which will not pass a 25mm screen, shall be considered as residuals and not compost. It may be placed back into the compost process for additional reduction in size and decomposition.

(d) Moisture content.

Any finished compost which is not mature shall have a moisture content no higher than 60% at the time it is released from the facility for distribution or use.

(e) Chemical Quality.

The chemical quality of the compost shall be determined by the toxicity characteristics leaching procedure (TCLP) for the following metals, and shall be defined as either good or poor:

Metal	Good Quality	Poor Quality
Arsenic	< 0.5 ppm	0.5 - 5.0 ppm
Barium	<10.0 ppm	10.0 - 100 ppm
Cadmium	< 0.1 ppm	0.1 - 1.0 ppm
Chromium	< 0.5 ppm	0.5 - 5.0 ppm
Lead	< 0.5 ppm	0.5 - 5.0 ppm
Mercury	<0.02 ppm	0.02 - 0.2 ppm
Selenium	< 0.1 ppm	0.1 - 1.0 ppm
Silver	< 0.5 ppm	0.5 - 5.0 ppm

(2) Compost shall be classified as follows:

(a) Class I is compost made only from yard waste and/or other rubbish, which is mature or semi-mature, and is fine or coarse. For such compost, the chemical quality is assumed to be good, and no analytical testing is required unless the Department has reason to believe that the quality of the compost may not be good. If the compost is semi-mature, the moisture content must be less than or equal to 60%

(b) Class II is compost made from sewage sludge, or from yard waste/rubbish mixed with sewage sludge, which is mature, fine, and has a good chemical quality.

(c) Class III is compost made from household garbage or any other solid wastes with similar properties or characteristics, which is mature, fine, and has a good chemical quality.

(d) Class IV is compost made from household garbage or any other solid wastes with similar properties or characteristics, which is mature or semi-mature, and is fine or coarse, and has a good chemical quality. If the compost is semi-mature, the moisture content must be less than or equal to 60%.

(e) Class V is compost made from any solid waste which is fresh, or which has a poor chemical quality.

E. Compost distribution and use.

(1) Compost classified as Class I or II shall have unrestricted distribution.

(2) Compost classified as Class III or IV shall be restricted to use by commercial, agricultural, institutional, or governmental operations. However, if it is used where contact with the general public is likely, such as in a park, only Class III compost may be used.

(3) Compost classified as Class V shall only be used as landfill cover, with the specific approval of the Department.

(4) Compost, which cannot be processed to meet the definition of one of the five classifications in Part D.2 of this rule, must be disposed in a facility approved by the Department.

(5) A release form shall be provided to every person who receives for distribution or use compost classified as Class II, III, or IV, which contains, at a minimum, the following information:

(a) the name of the person to whom the compost is released, and the date released;

(b) the classification and quantity of compost released;

(c) the results of the latest chemical analysis of the compost conducted pursuant to paragraph C.3 of this rule;

(d) the amount of total cadmium, copper, nickel, lead and zinc present in the compost, expressed in pounds per dry ton of compost;

(e) the maximum allowable compost application rate (MACAR), in tons per acre, based upon the concentration of total cadmium, copper, nickel, lead and zinc, as computed and restricted in paragraph E.6 of this rule;

(f) a statement that any application of the compost in excess of the maximum allowable compost application rate as shown on this form is a violation of the laws of the State of Mississippi;

(g) if the compost is classified as Class IV, a statement that the compost shall not be applied where contact with the general public is likely, such as in a park.

(h) the signature of a representative of the compost facility and the person to whom the compost is released.

If the person listed in paragraph E.5.a of this rule indicates in the release form that he/she will not distribute or use the compost within the State of Mississippi, or, if the compost will only be used for landfill cover, the information in paragraph E.5.d, E.5.e, or E.5.f of this rule are not required to be provided.

(6) The maximum allowable compost application rate (MACAR) shall be computed according to the following equation:

$$\{MACAR\}_M = \{MAMAR\}_M$$

$$\{CONC\}_M \text{ X } 10^{-6} \text{ X } 2000$$

where $\{MACAR\}_M$ = maximum allowable compost application rate, in tons/ac/yr, based upon the specific metals listed in paragraph E.7.a of this rule.

$[MAMAR\}_M$ =maximum allowable metal application rate, in lbs/ac/yr., for each of the metals listed in paragraph E.7.a of this rule.

$\{CONC\}_M$ = the total metal concentration, in mg/kg dry weight, for each of the metals listed in paragraph E.7.a of this rule.

After computing the MACAR for each of the metals listed in paragraph E.7.a. of this rule, the lowest value computed shall be the MACAR to be provided in the release form pursuant to paragraphE.5 of this rule.

(7) (a) Except as provided in paragraphs E.7.b and E.7.e of this rule, no person who applies or uses compost on land within the State of Mississippi, other than for landfill cover, shall do so in a manner that exceeds the following maximum allowable metal application rates (MAMAR's):

Metal	MAMAR (lbs/ac/yr)
Cadmium	0.45
Copper	11.1
Lead	44.5
Nickel	11.1
Zinc	22.2

(b) For applications where repeated use of the compost is not expected, such as land reclamation or as a soil amendment on highway right-of-ways, request for higher application rates may be made to the Department. Such request must be made in writing to the Department, stating the site upon which the compost will be used. The request must be approved in writing by the Department.

In no case will the Department allow an application rate of more than 10 times the MAMAR's listed in this part, except as provided in paragraph E.7.c of this rule.

(c) If a person wishing to apply compost to the soil can demonstrate through an analysis of the soil cation exchange capacity and other physical or chemical characteristics of the soil that a higher MAMAR will provide an equal degree of protection to the environment, the Department may approve such application rates.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Part 4, Chapter 2: Mississippi Commission on Environmental Quality Regulations Regarding Evaluation Criteria for Local Solid Waste Management Plans

TABLE OF CONTENTS

Rule 2.1 Authority and Scope

Rule 2.2 Definitions

Rule 2.3 Evaluation Criteria

Rule 2.4 Approval/Disapproval by Commission

Rule 2.1 Authority and Scope. The Mississippi Solid Waste Planning Act of 1991 requires that every county, either individually or in cooperation with others, in cooperation with municipalities within the county, shall prepare, adopt, and submit to the Commission on Environmental Quality for review and approval a local nonhazardous solid waste management plan for the county. The act also requires the Commission to establish criteria for the evaluation of local nonhazardous solid waste plans. These criteria are adopted pursuant to Section 17-17-225 of the act, and include the following:

A. The unit of local government's demonstration of the understanding of its nonhazardous solid waste management system, including the sources, composition, and quantities of nonhazardous solid waste generated within the planning area and transported into the planning area for management, and existing and planned nonhazardous solid waste management capacity, including remaining available capacity;

B. The adequacy of the local strategy for achieving the twenty-five percent (25%) waste minimization goal;

C. The reasonableness of the projections of nonhazardous solid waste generated within the planning area; and

D. The adequacy of plans and implementation schedules for providing needed nonhazardous solid waste management capacity.

Source: Miss. Code Ann. *§§ 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 17-17-1, et seq. 49-2-1, et seq. and 49-17-1, et seq.*

Rule 2.2 Definitions.

A. "Contiguous Property" - shall mean any property sharing a common border or point with a property where a new or expanded solid waste management facility is proposed. A property shall also meet this definition if the property would otherwise be contiguous except for separation by a street, highway, railroad line or other similar transit or utility right-of-way or other property owned by the applicant.

B. "Minor Modification" shall mean an amendment or addition to an approved plan, which is an administrative change or which does not involve or result in a significant change in the manner of solid waste management in the planning area. A minor modification would also include the addition or expansion of solid waste facilities, which do not require solid waste management permits or which are noncommercial, on-site and captive to wastes generated solely by the owner of the facility. A minor modification would not include: the addition of a new or expanded commercial solid waste management facility (facility); a significant change in the operation of an existing facility; a change in the service area for an existing facility; or any other significant change in the manner in which solid wastes are managed in the planning area.

Source: Miss. Code Ann. *§§ 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 17-17-1, et seq. 49-2-1, et seq. and 49-17-1, et seq.*

Rule 2.3 Evaluation Criteria.

A. Understanding of the Solid Waste Management System

(1) Each plan must clearly demonstrate that it has accounted for residential, commercial, and industrial nonhazardous wastes, and any special wastes which may be a problem unique to that area.

(2) Each plan must clearly demonstrate that it has determined the composition of nonhazardous solid waste currently disposed in facilities receiving household solid waste.

(a) The composition of residential waste shall be determined by at least two sampling events conducted in the planning area, one representative of an incorporated area, and the other representative of the unincorporated area.

Sampling events shall be repeated at least every five (5) years.

(b) Large quantities of industrial waste should be added into the overall waste composition.

(c) The composition of solid waste should be categorized into at least the following components:

(1) Cardboard/corrugated paper

(2) Newsprint

(3) Other paper

(4) Plastic

(5) Metals (ferrous, aluminum, etc.)

(6) Glass

(7) Wood/yard waste

(8) Food waste

(9) Textiles, other organics (rubber, leather, etc,)

(3) (a) Each plan must clearly demonstrate that it has determined the quantity of nonhazardous solid waste currently generated in the planning area and transported into the planning area, including residential, commercial, and industrial wastes, and any special wastes which may be a problem unique to that area.

(b) The quantity must be determined by actual measurements or records of representative samples of solid wastes generated in the planning area and transported into the planning area.

(4) Each plan must clearly demonstrate that it has inventoried all existing facilities managing municipal solid waste, and that each facility has been generally described in terms of the type waste received, the operational history, the environmental suitability of the site, and the remaining available permitted capacity of each facility.

(a) At a minimum, the facilities inventoried must include all facilities authorized by the Mississippi Department of Environmental Quality, including public and private landfills, landfarms, and processing facilities.

(b) For any existing facilities receiving household solid waste which plan to discontinue operations before October 9, 1993,

(1) the environmental suitability may be generally addressed by declaring the facility unsuitable for long-term use, and

(2) the operational history may be generally addressed in terms of length of operations and types of wastes received.

(c) For any existing facilities receiving household solid waste which plan to continue operations after October 9, 1993, or which may be later evaluated for long-term use,

(1) the environmental suitability should be generally addressed with a discussion of those features and characteristics which make it favorable for long-term use, and

(2) the operational history should be generally addressed in terms of length of operations, types of waste received, and past enforcement actions taken against the facility.

(d) For any existing facilities receiving wastes other than household solid wastes, the plan should determine the long-term plans of the facility and its role in helping to meet the solid waste needs of the planning area.

(5) Each plan must clearly demonstrate that solid waste collection services are provided for all areas within the plan.

(6) Each plan must demonstrate the commitment of the county or planning authority to identifying and cleaning up all known open dumps within the planning area through the utilization of local enforcement authority.

(7) Each plan must describe its proposed system for waste tire management within the planning area. A clear understanding of the extent of the waste tire problem in the area shall be demonstrated by an estimation of the quantity of waste tires generated in the planning area and an inventory of waste tire collection sites or dumps in the area. The plan must contain an implementation schedule for starting up its proposed system.

B. Adequacy of Local Strategy for Waste Minimization. Each plan must contain an adequate local strategy for achieving a 25% waste minimization goal. The strategy shall contain specific programs or actions toward meeting the goal, such as policies promoting waste education, education programs, recycling or composting projects, and a schedule for implementation.

C. Reasonableness of Solid Waste Projections. Each plan must demonstrate that the projections of solid waste generated over the planning period are adequate to meet the needs of the area. Such projections shall be based upon reasonably expected population projections over the next 20 years, and may also include any anticipated commercial or industrial growth. Any solid waste projected to be transported into the planning area from outside the planning area shall also be accounted for in any projections.

D. Adequacy of Plans and Implementation Schedules.

(1) Each plan shall include a list of existing solid waste management facilities and also any additional planned facilities needed to meet the projected solid waste management needs of the planning area.

(a) Existing facilities shall be specifically identified, including all municipal solid waste landfills and other commercial landfills, rubbish disposal facilities, compost facilities, transfer stations, industrial disposal facilities and other solid waste management facilities. The role of each existing facility in meeting the intermediate and long-term needs of the planning area shall be described.

(b) Planned solid waste management facilities, whether new or expansions of existing facilities, which are expected to meet the solid waste needs shall be identified in the plan specifically as to the type, the name of the facility, the location, the size, and expected ownership and service area. Any plan, which does not identify the specific location of such facilities, must be modified to include such information, before an application for a permit is submitted to the Department.

(c) A proposed new or modified plan shall include a demonstration that owners of contiguous property to any planned new or expanded solid waste management facility, except land application facilities, are sent notice in writing of the proposed facility and of the specific facility information described in Rule 2.3(D)(1)(b) above. Written notification shall be sent by certified mail to the landowner's address as indicated on county tax records. The notice shall be sent no later than the date of issuance of the public notice, required by Miss. Code Ann. Section 17-17-227, and shall contain a copy of the subject public notice. The demonstration provided to the Department should include copies of the signed receipts of certified mail delivery or a copy of any returned certified mail item, that is refused or otherwise undeliverable.

(2) Each plan shall include a specific schedule for implementation.

(3) For any publicly-owned facilities, the plan shall include an estimation of the costs of such facilities. If any local government entity or regional authority plans to

contract with the private sector for use of privately-owned facilities, an estimation of the total contractual costs shall be made.

(4) Each plan shall identify the proposed method of financing any public expenditures for solid waste management services.

Source: Miss. Code Ann. *§§ 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 17-17-1, et seq. 49-2-1, et seq. and 49-17-1, et seq.*

Rule 2.4 Approval/Disapproval by Commission.

A. If the Commission determined that a plan has met the criteria specified herein, it shall by order, approve the plan.

B. (1) If the Commission determines that one or more of the criteria herein has not been fully met, but that Rule 2.3(D) of this criteria has been met in relation to the residential and commercial solid waste needs of the planning area, it may by order conditionally approve the plan. The Commission shall include in the order the conditions, upon which the plan is approved, including a list of deficiencies, which prevent the plan from becoming fully approved and a schedule for correcting those deficiencies.

(2) Should the county or planning authority fail to correct the deficiencies listed by the Commission within the established schedule, the Commission may take any enforcement action which it is authorized by law to administer, or it may, by order, rescind its conditional approval.

(3) Upon correction of the deficiencies listed with any conditional approval, the Commission shall fully approve the plan.

C. If the Commission determines that the plan fails to meet the criteria of Rule 2.3(D) with respect to residential and commercial waste needs, or that other criteria herein have not been met, it may, by order, disapprove the plan. The Commission shall include in the order a statement outlining the deficiencies in the plan and shall direct the county or planning authority to submit a revised plan that remedies those deficiencies. Any person found by the Commission to be in violation of said order shall be subject to civil penalties pursuant to Miss. Code Ann. Section 17-17-29.

D. No new plan or modification to an approved plan shall be approved or conditionally approved by the Commission, until it has been duly ratified in accordance with Paragraph (5) of Miss. Code Ann. Section 17-17-227 and Rule 2.3(D) of these Regulations, except where the action involves a minor modification to the plan.

In the case of a minor modification to an approved plan, ratification of the modified plan shall be approved in accordance with Paragraph 5 of Miss. Code Ann. Section 17-17-227 and Rule 2.3(D) of these regulations except as described below:

(1) A minor modification may be approved without the mandatory public notice and public hearing requirements and the adjacent county notice procedures described in Part 5(a) of Paragraph 5 of Miss. Code Ann. Section 17-17-227.

(2) A minor modification may be approved by the local government without the notification to the contiguous property owners as required by Rule 2.3(D)(1)(c) of these regulations.

Source: Miss. Code Ann. *§§ 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 17-17-1, et seq. 49-2-1, et seq. and 49-17-1, et seq.*

Part 4, Chapter 3: Mississippi Commission on Environmental Quality Grant Regulations for Waste Tire and Solid Waste Assistance Funds, **Authority**

TABLE OF CONTENTS

Rule 3.1 Waste Tire Grant Guidelines

Rule 3.2 Local Governments Solid Waste Assistance Grant Guidelines

Rule 3.3 Solid Waste Planning Grant Guidelines

APPENDIX Intergovernmental Review Process

Rule 3.1 Waste Tire Grant Guidelines.

A. Eligibility and Allocation of Funds

(1) Monies allocated to the Environmental Protection Trust Fund from waste tire fees shall be utilized for making grants as follows:

(a) To counties, municipalities, or regional solid waste management authorities

(1) for providing a waste tire collection site(s) for small quantity waste tire generators, and

(2) for use in clean-up of small scattered unauthorized waste tire dumps, not abated under the Department's waste tire abatement

program. These grants shall herein be known as "local community waste tire collection and clean-up grants";

(b) To persons that will manufacture products from waste tires, use recovered rubber from waste tires or use waste tires as a fuel or fuel supplement and for funding research and demonstration projects directly related to solving solid waste problems resulting from waste tires, herein known as "waste tire recycling/research grants".

(c) To counties, municipalities or regional solid waste authorities for purchase of products derived from Mississippi Waste Tires, herein known as tire-derived product grants.

(d) To counties, municipalities or regional solid waste authorities for providing funds for employment of a solid waste enforcement officer, herein known as solid waste enforcement officer grants.

(2) For local community waste tire collection and clean-up grants:

(a) The Department of Environmental Quality (Department) may receive grant applications at any time. All applications received will be evaluated for consistency with these regulations, subject to the availability of funds.

(b) The entire cost of the local community waste tire collection and clean-up program may be eligible for grant award.

(3) For waste tire recycling/research grants:

(a) The Department will receive grant applications semiannually. All applications received by April 1 and October 1 of each year will be evaluated for consistency with these regulations, subject to the availability of funds.

(b) (1) No more than 50% of the costs of the project are eligible to provide incentive grants to persons that will manufacture products from waste tires, use recovered rubber from waste tires or use waste tires as a fuel or fuel supplement.

(2) No more than 50% of the costs of the project are eligible to provide funding for research and demonstration projects related to solving waste tire problems resulting from waste tires if such a project is proposed by a private, commercial establishment. However, up to 100% of the costs of the project are eligible for grant awards, if such project is proposed by a public or nonprofit entity.

(4) For tire-derived product grants:

(a) Based on the availability of funding, the Commission on Environmental Quality (Commission) may set aside designated funds for use in awarding grants to local governments to purchase products derived from waste tires generated in Mississippi. Upon the designation of such funds by the Commission, the Department shall advertise the availability of the funding and shall determine and advertise a date during the fiscal year to receive applications for these grant funds.

(b) Grant funds are only available to purchase products that have been sufficiently demonstrated or, where necessary, have been certified as a product for use in the intended purpose.

(5) For solid waste enforcement officer grants:

(a) The Department of Environmental Quality (Department) may receive grant applications from local governments at any time. All applications received will be evaluated for consistency with these regulations, subject to the availability of funds.

(b) Local government applicants which obtain grant funding under Rule 3.2(A)(1) of these regulations for up to 50% of the cost of employing a local solid waste enforcement officer are eligible to receive an additional 25% of the total funding to supplement the primary grant award. Overall funding under these conditions shall not exceed 75% of the total costs of employing a local solid waste enforcement officer.

(c) Local government applicants which obtain grant funding as described in Rule 3.1(A)(5)(b) above may be eligible for an additional 10% of the total funding where the government has adopted an enforceable local solid waste dumping ordinance or code. Overall grant funding under these conditions shall not exceed 85% of the total costs of employing a local solid waste enforcement officer.

(d) In instances where solid waste assistance funds under Rule 3.2(A)(2) are unavailable or where the local government has already committed its eligible solid waste assistance funds to other uses, the local government applicant may be eligible to receive funds under this Section as the primary funding for the cost of employing a local solid waste enforcement officer. Under these conditions, the local government applicant may apply for funds for the payment of up to 50% of the cost of employing the officer.

(e) The cost of employing a solid waste enforcement officer shall be limited to salary and fringe benefits for purposes of these regulations.

(f) Enforcement officers employed with support from these funds shall comply with the conditions and work duties prescribed by the Department for local solid waste enforcement officers.

(g) Where possible, grants under this Section will be awarded either as part of a local community waste tire collection and clean-up grant, described in Rule 3.1(A)(1)(a) and 3.1(A)(2) or a part of a grant awarded for the cost of employing a solid waste enforcement officer, described in Rule 3.2(A)(1)(d) and 3.2(A)(8).

(6) Other Grant Guidelines

(a) Generally, no grant shall be awarded under Rule 3.1(A)(3) and (4) for any activity, which receives less than 75% of its waste tires from Mississippi waste tire sites, retailers or residents. However, the Commission may consider requests for funding from applicants who do not meet this requirement contingent upon the applicant demonstrating that the activity does or will accept Mississippi waste tires and that the award of the requested funding would be in the best interest of the State of Mississippi. The burden of proof shall be on the applicant to demonstrate that eligibility requirements have been met.

(b) No grant shall be awarded for the purchase or lease of equipment or other property, unless it can be demonstrated that such equipment or property is integral to the successful achievement of the overall goals of Rule 3.1(A)(1)(a), (b), or (c).

(c) No grant shall be awarded to a local government under Rule 3.1(A)(3), (4), or (5), if it is determined that the local government has not developed an adequate local waste tire collection and clean-up program.

(d) No grant shall be awarded if the grant is determined by the Department to be inconsistent with a local, solid waste management plan that has been submitted to and approved by the Commission.

B. Grant Application Procedures

(1) In order to receive consideration for a grant award from the Commission on Environmental Quality, persons or entities shall submit to the Department an application package, including an original and two (2) copies of a grant application. The application package shall contain the following items:

(a) a completed grant application form, as provided by the Department;

(b) a detailed narrative description of the proposed activity and discussion of the technical and economic feasibility of the project;

(c) documentation of completion of the intergovernmental review process as described in the appendix to this rule, including copies of all intergovernmental review agency comments received;

(d) a copy of all local, state, and federal permits to conduct the proposed activity;

(e) all other forms, documents, and supporting information required by the Department.

(2) Where funds requested exceed funds available, applications shall be evaluated and ranked, with preference for approval based on the following factors:

(a) For local community waste tire collection and clean-up grants:

(1) The applicant has not been previously funded or has not received funds during the current state fiscal year.

(2) The project proposes to recycle waste tires for other uses rather than conducting activities which simply lead to the disposal of the tires.

(3) The funds requested will be used as leverage, or matching for additional funds.

(4) The project is proposed to serve an area that has inadequate waste tire management capacity.

(5) The project proposes to process or manage a larger number of waste tires than other projects proposed.

(b) For waste tire recycling/research grants:

(1) The project proposes to recycle the whole tire rather than use only parts of the tire.

(2) The project is an integral part of a county or regional waste tire management plan.

(3) The funds requested will be used as leverage, or matching for additional funds.

(4) The technical and/or economic merits of the project appear superior to other projects proposed.

(5) The project is proposed to serve an area that has inadequate waste tire management capacity.

(6) The project proposes to process or manage a larger number of waste tires than other projects proposed.

(7) The project proposes to employ higher numbers of persons than other projects proposed.

(8) The proposal is vital to the continuation and/or completion of an on-going research project.

(9) The project is proposed by a university, college, other academic group, or public agency.

(c) For tire-derived product grants:

(1) The applicant has not been previously funded or has not received funds during the current state fiscal year.

(2) The tire-derived product to be used is a newly developed product or has not previously been utilized in Mississippi.

(3) The purchase of the tire-derived product will lead to the establishment or growth of efforts to manufacture the product in Mississippi.

(4) The proposal is deemed to be creative and innovative and has a high potential for providing additional solutions to the problems of waste tire management.

(5) The local government applicant has established an ongoing successful waste tire collection and clean-up program including an adequate number of collection sites and appropriate public outreach efforts.

(d) For solid waste enforcement officer grants:

(1) The applicant has established an ongoing, successful, local solid waste enforcement program.

(2) The applicant has adopted enforceable and appropriate local dumping ordinances or laws.

(3) The applicant has demonstrated a long term commitment of funding support to the employment and work efforts of a local solid waste officer, rather than for just the proposed grant period.

(4) The applicant proposes an enforcement program that will serve a wider geographic area and/or a larger population base than other projects.

(5) The applicant has established an ongoing successful waste tire collection and clean-up program including an adequate number of collection sites and appropriate public outreach efforts.

C. Disapproval of Grant Applications

(1) The Department may refuse to approve a grant application for any of the following reasons:

(a) the Department determines that the project is not consistent with state law or with Rule 3.1(A) or (B) of these regulations;

(b) the Department determines that the project is not consistent with the approved local solid waste management plan;.

(c) the Department determines that, for those proposals involving incentive recycling projects, the project is not likely to result in the utilization of a manufactured product or recovered rubber, or the utilization of waste tires as a fuel or fuel supplement;

(d) the Department determines that, for those proposals involving research and demonstration projects, the project is not directly related to solving a solid waste problem resulting from waste tires, or is not likely to result in solving the problem;

(e) the Department determines that the applicant does not possess the required local, state, or federal permits necessary to construct or conduct the proposed activity;

(f) the applicant is in violation of, or delinquent on, any condition of a previously awarded grant by this Department;

(g) the applicant has been significantly or habitually in violation of environmental laws, regulations, or permits;

(h) the applicant has deliberately falsified information submitted as part of the application;

(i) the Department determines that the applicant has proposed expenditures for grant project activities or components that are unnecessary or that exceed the expected usual and customary costs for such activities or components.

(j) the Department determines there are insufficient funds in the waste tire account.; and

(k) the proposal ranks lower than other projects based on the factors described in Rule 3.1(B).

(2) If the Department should refuse to approve a grant application for any reason, the applicant may request a hearing before the Commission in accordance with Section 49-17-35, Mississippi Code Annotated.

D. Conditions of Grant Awards

(1) Grants made to counties, municipalities or regional solid waste management authorities shall require compliance with all applicable procurement and purchasing regulations established pursuant to state law.

(2) At the discretion of the Commission, monies which are unspent after the expiration date of the grant award shall be forfeited back into the waste tire account.

(3) Grants made to any person or group which are awarded for less than 100% of the total estimated costs of the project shall ensure that the grantee's matching share is expended or committed in proportion to the release of state grant funds.

(4) The Commission may include any other conditions as part of the grant award which it determines are necessary to reasonably manage the project and/or protect the environment.

E. Reallocation of Funds

The Commission, upon determination that unused grant funds are available in a particular category, may reallocate funds between the programs described in paragraph A.1 of this rule.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 49-2-9(1)(b), 49-17-17(i), 17-17-201, et seq., 17-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 3.2 Local Governments Solid Waste Assistance Grant Guidelines.

A. Eligibility and Allocation of Funds

(1) The Local Governments Solid Waste Assistance Fund shall be used to provide grants to counties, municipalities, regional solid waste management authorities or multi-county entities for one or more of the following purposes:

(a) Clean-up of existing and future unauthorized dumps on public or private property, subject to the limitation of Section 17-17-65(3), Mississippi Code, Annotated and paragraph A.9 of this Rule.

(b) Establishment of a collection center or program for white goods, recyclables or other bulky rubbish waste not managed by local residential solid waste collection programs;

(c) Provision of public notice and education related to the proper management of solid waste, including recycling;

(d) Payment of a maximum of fifty percent (50%) of the cost of employing a local solid waste enforcement officer;

(e) Payment of a maximum of seventy-five percent (75%) of the cost of conducting household hazardous waste collection day programs in accordance with Sections 17-17-249 through 17-17-445 and the Mississippi "Right-Way to throw away Program" Regulations; and

(f) Development of other local solid waste management program activities associated with the prevention, enforcement or abatement of unauthorized dumps, as approved by the Commission.

(2) Excepting those monies used by the Department for administration of this program, as provided in Section 17-17-65, monies deposited annually in the Local Governments Solid Waste Assistance Fund and any balance of funds not awarded from the previous year shall be allocated as follows:

(a) One-half (1/2) shall be allocated to each county based on the percentage of State Aid road mileage as established by the Mississippi Department of Transportation State Aid road formula at the beginning of the fiscal year. This portion of the fund shall be referred to as the non-competitive funds.

(b) One-half (1/2) shall be made available to counties, municipalities, regional solid waste management authorities, or other multi-county entities for grants on a competitive basis. This portion of the fund shall be referred to as the competitive fund.

(3) The amount of non-competitive funds allocated to individual counties shall be based upon the amount of money estimated to be deposited into the Local Governments Solid Waste Assistance Fund during the first three months of the fiscal year plus the balance of funds not awarded from the previous year. All money deposited into the fund after the first three months of the fiscal year shall be retained in the fund for the succeeding fiscal year and included in that year's allocation.

(4) Any county belonging to a regional solid waste management authority or other multi-county entity shall adopt a resolution to allow the regional authority or other multi-county entity to apply for and use the county's noncompetitive funds. In such a case, the county will not be eligible for the annual allocation until the next fiscal year, but remain eligible for the competitive funds.

(5) No grantee shall use more than three percent (3%) of the funds provided to defray the costs of administration of the grant.

(6) Funds provided through a grant award shall not be used to pay any costs of the establishment or operation of a landfill, rubbish disposal site or other type of solid waste disposal facility, for the routine collection of garbage or to collect any fees assessed under Section 19-5-21 or 21-19-2, Mississippi Code Annotated.

(7) A county or municipality that has an inadequate garbage collection and disposal system or an inadequate rubbish disposal system as required by Section 19-5-17 or 21-19-1, Mississippi Code, Annotated, may not receive funding assistance from this fund. Additionally, the county must have a waste tire collection program in place, as required by Section 17-17-409, Mississippi Code Annotated, before a grant award can be approved by the Department.

(8) (a) A grantee may receive funds for the payment of up to fifty percent (50%) of the cost of employing a local solid waste enforcement officer. The costs of employment of a local enforcement officer shall be limited to salary and fringe benefits for purposes of these regulations.

(b) Enforcement officers employed with support from these funds shall comply with the conditions and work duties prescribed by the Department for solid waste enforcement officers.

(9) If a grantee receives funds to clean up any unauthorized dumps on public or private property, the grantee shall make a reasonable effort to determine if a responsible party or person can be identified and, if so, to require that party or person to clean up the property. If the grantee is unable to locate or identify the responsible party or person, or if the grantee determines that party or person is financially or otherwise incapable of cleaning up the property, the

grantee shall make a reasonable effort to recover any funds expended from any known responsible person or from any person subsequently located or identified. Any such funds recovered may be retained and used by the grantee for any lawful expenditure relating to the solid waste assistance grant award.

(10) No grant shall be awarded for the purchase or lease of equipment or other property, unless it can be demonstrated that such equipment or property is integral to and will be primarily used for the successful achievement of the project purposes as described in Rule 3.2(A)(1). For purposes of this rule, property shall include structures, fencing, or other items, but not land purchases.

B. Grant Application Procedures

In order to receive consideration for a grant award from the Commission on Environmental Quality, counties, municipalities, regional solid waste management authorities, and other multi-county entities shall submit an application as per the following procedures:

(1) Non-Competitive Fund Grant Applications - Counties may submit an application for the amount of allocated funds described in Rule 3.2(A)(2)(a) these regulations, upon annual notification by the Department.

(a) The Department may receive grant applications at any time, but not later than April 30 of the funding year. Any county not submitting a complete grant application by the above date shall forfeit its funding allocation for that state fiscal year.

(b) The entire cost of the program may be eligible for funding, subject to the limitations in Rules 3.2(A)(2)(a) and (A)(8).

(c) Grant applications shall be submitted on a form provided by the Department and shall include a detailed narrative description of the scope of work and a proposed budget for the planned activities.

(2) Competitive Fund Grant Applications - Counties, municipalities, regional solid waste management authorities and other multi-county entities may submit an application for a grant up to the amounts described in Rule 3.2(B)(2)(b) below.

(a) The Department will receive competitive grant applications twice each year. All applications received by April 1 and October 1 of each funding year will be evaluated consistent with these regulations, subject to the availability of funds.

(b) Unless specifically approved by the Commission, applicants shall be limited to the following maximum funding levels:

(1) For counties, municipalities, regional solid waste management authorities, or multi-county entities whose latest census population is 50,000 or greater, the maximum funding level shall be $75,000.

(2) For counties, municipalities, regional solid waste management authorities, or other multi-government entities whose latest census population is 25,000 or greater but less than 50,000, the maximum funding level shall be $50,000.

(3) For counties, municipalities, regional solid waste management authorities, or other multi-government entities whose latest census population is 10,000 or greater, but less than 25,000, the maximum funding level shall be $25,000.

(4) For counties, municipalities, regional solid waste management authorities, or other multi-government entities whose latest census population is less than 10,000, the maximum funding level shall be $15,000.

(c) Grant applications shall be submitted on forms provided by the Department and shall contain the following items:

(1) a completed grant application form as provided by the Department;

(2) a detailed narrative description and a proposed budget of the planned activity;

(3) a discussion of how the project will be an integral part of the city/county/regional solid waste management plan for the area;

(4) a copy of any local, state, and/or federal permits, if applicable, to conduct the proposed activity;

(d) A city and county may apply jointly for the competitive funds with one entity as the lead applicant.

(e) If a county, municipality, regional solid waste management authority, or other multi-county entity uses the total population of a county or counties to apply for the maximum funding level allowed in Rule 3.2(B)(2) of these regulations, the proposed project or program must

provide for benefits and/or services to all persons included in the population base.

(f) Any application submitted by a regional solid waste management authority or other multi-county entity must contain documents of authorization from a majority of the members.

(g) Applications shall be evaluated and ranked with preference for approval based on the following factors:

(1) The applicant has not been previously funded under this grant category.

(2) The project is deemed creative and innovative.

(3) The funds requested will be used as leverage, or matching for additional funds.

(4) The project will result in significant enhancement or improvement of the solid waste management program or services of the project area.

(5) The technical and economic merits of the project appear superior to other projects.

(6) The project proposes a long term commitment of staff and monies by the applicant to a comprehensive solid waste management program rather than for just the proposed grant period.

(7) The project is proposed for an area containing a greater population base than other projects.

C. Disapproval of Grant Applications

(1) The Department may refuse to approve a grant application for any of the following reasons:

(a) the Department determines that the project is not consistent with these regulations;

(b) the Department determines that the applicant has failed to provide a complete application as per Rule 3.2(B)(1)(c) and/or (B)(2)(c);

(c) the Department determines that the applicant does not possess the required local, state, or federal permit(s) necessary to conduct the proposed project;

(d) the applicant is in violation of, or delinquent on, any condition of a previously awarded grant by this Department;

(e) the applicant has deliberately falsified information submitted as part of the application;

(f) the Department determines that the applicant has proposed expenditures for grant project activities or components that are unnecessary or that exceed the expected usual and customary costs for such activities or components; and

(g) there are insufficient grant funds in the subject accounts of the local governments solid waste assistance fund;

(h) the proposal is ranked lower by the Department than other proposals based on the factors described in Rule 3.2(B)(2)(g).

(2) If the Department should refuse to approve a grant application for any reason, the applicant may request a hearing before the Commission in accordance with Section 49-17-35, Mississippi Code, Annotated.

D. Conditions of Grant Award

(1) The grantee shall comply with all applicable procurement and purchasing regulations established pursuant to state law.

(2) At the discretion of the Department, monies which are unspent after the grant expiration date shall be forfeited back to the local governments solid waste assistance fund.

(3) The grantee's matching share, if applicable, shall be expended or committed in proportion to the release of state grant funds.

(4) A summary report shall be prepared and submitted to the Department with each reimbursement request, detailing the cost of the project and a summary of the activity conducted during the payment period.

(5) The Commission may include other conditions as part of the grant award, which are determined necessary to reasonably manage the project and/or protect the environment.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 49-2-9(1)(b), 49-17-17(i), 17-17-201, et seq., 17-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Rule 3.3 Solid Waste Planning Grant Guidelines

A. Eligibility and Allocation of Funds

(1) Ten percent (10%) of the amount deposited in the local governments solid waste assistance fund annually shall be set aside in a "solid waste planning grants fund." This fund shall be used to make grants to counties, municipalities, regional solid waste management authorities, or other multi-county entities to assist in defraying the cost of preparing solid waste management plans as required by Section 17-17-227 of the Mississippi Code, Annotated. Such grants for purposes of these regulations shall be herein referred to as "planning grants."

(2) Any funds remaining in the solid waste planning grants fund at the end of the State Fiscal Year that are not awarded shall be deposited back into the Solid Waste Assistance Fund and shall be reallocated as described in Section 17-17-65 of the Mississippi Code, Annotated.

(3) Planning grant awards shall only be made to counties, municipalities, regional solid waste management authorities or other multi-county entities to conduct planning efforts involving the comprehensive development or comprehensive update of a local solid waste management plan. No planning grant shall be awarded for conducting efforts involving only amendments or modifications to a local plan, such as the addition of a new facility or program, the change in service area for a facility, or other limited planning modifications that are not comprehensive in scope.

(4) No planning grant shall be awarded to a county or municipality that is a member of a regional solid waste management authority or other multi-county entity, unless that county or municipality has formally withdrawn from the authority or multi-county entity in a manner consistent with the applicable sections of state law.

(5) Planning grants may be used to defray the costs of preparing and developing a local solid waste management plan, where the employee, person, contractor, or organization developing the plan has obtained approval from the Department to prepare such comprehensive solid waste plans in the State of Mississippi. A grant applicant may select an approved person or organization to conduct the local planning efforts from a listing maintained by the Department. Inclusion of persons or organizations on the listing shall be based upon the presentation of credentials demonstrating knowledge and expertise of solid waste planning in Mississippi and upon other information determined necessary by the Commission. Persons that are denied inclusion on the listing may appeal such decision to the Mississippi Commission on Environmental Quality.

(6) Whether an applicant chooses to utilize internal resources or contractual resources to conduct the planning project, the planning project costs eligible for grant funding shall generally be limited to the following:

(a) the salary of the personnel directly involved in the collection of planning information and in preparing the plan, for only that time expended in the development of the plan,

(b) the associated travel costs of appropriate personnel for only that travel that directly relates to the collection of information to develop the plan,

(c) the costs of formally adopting the plan including the costs of public notice and hearing and other associated expenditures related to complying with the procedures outlined in state law and regulations for adoption of local solid waste management plans, and

(d) other miscellaneous costs such as publication costs, survey costs, mailing and delivery costs, and other items directly related to collecting information and preparing the plan.

Project costs must be specifically disclosed and justified in the proposed budget submitted with the grant application as described in Rule 3.3(B)(2).

(7) No grant shall be awarded under this program for the purchase or lease of equipment or other property.

B. Grant Application Procedures

In order to receive consideration for a grant award from the Commission on Environmental Quality, counties, municipalities, regional solid waste management authorities and other multi-county entities shall submit an application as per the following procedures:

(1) The Department may receive planning grant applications at any time, but not later than April 30 of the funding year. All applications received before that date will be evaluated for consistency with these regulations, subject to the availability of funds.

(2) Grant applications shall be submitted on a form provided by the Department and shall include a narrative description of the scope of work and an itemized budget for the planning project. The itemized budget shall indicate the overall total costs of conducting the planning effort and the amount of grant funds proposed to be applied towards the total cost of the planning effort.

(3) Grant applicants that propose to utilize contractual assistance in preparing the plan shall include the name, the contact information, and the primary person(s) of contact for the contractor selected by the applicant and the reasons for the selection of the contractor.

(4) Unless specifically approved by the Commission, applicants shall be limited to the following grant funding levels:

(a) For counties, municipalities, regional solid waste management authorities, or multi-county entities whose latest census population is 75,000 or greater, the maximum funding level shall not exceed 50% of the total costs of conducting the planning project.

(b) For counties, municipalities, regional solid waste management authorities, or multi-county entities whose latest census population is 25,000 or greater but less than 75,000, the maximum funding level shall not exceed 60% of the total costs of conducting the planning project.

(c) For counties, municipalities, regional solid waste management authorities, or multi-county entities whose latest census population is less than 25,000, the maximum funding level shall not exceed 75% of the total costs of conducting the planning project.

(d) For counties, municipalities, regional solid waste management authorities, or other multi-county entities that are deemed to be economically disadvantaged communities, the maximum funding level may be up to 90% of the total costs of conducting the planning project. For the purposes of these regulations, an economically disadvantaged community shall be defined as one that meets at least one of the following criteria:

(1) The county has an annualized unemployment rate that is 200% of the state unemployment rate as determined by the Mississippi Employment Security Commission's most recently published data, or

(2) 30% or more of the population of the county is at or below the federal poverty level, based on data compiled in the most recent federal census.

Local governments applying for funding as economically disadvantaged communities must demonstrate in the grant application that the community meets at least one of these criteria.

(5) Applications shall be evaluated and ranked with preference for approval based on the following factors:

(a) Circumstances have occurred where no approved solid waste plan exists for the jurisdictional area of the applicant.

(b) The proposed planning project is the result of an order or directive of the Commission on Environmental Quality.

(c) The level of need of the local planning project is greater than for other proposed projects.

(d) The applicant has not been previously funded under this grant category.

When funds requested exceed funds available, the ranking factors above maybe used to determine which projects are awarded grant funding. However, the Commission, in its discretion, may also apportion available funding to all applicants in a fair and equitable manner when the factors above do not yield clear award preferences. Such apportionment shall be made utilizing the maximum funding percentages of Rule 3.3(B)(4) as guidance.

C. Disapproval of Grant Applications

(1) The Department may refuse to approve a grant application for any of the following reasons:

(a) the Department determines that the planning project is not consistent with these regulations or with State laws or regulations governing the development of a local solid waste management plan;

(b) the Department determines that the applicant has failed to provide a complete grant application as per Rules 3.3(B)(1) and/or (2);

(c) the applicant is in violation of, or delinquent on any condition of a previously awarded grant by this Department;

(d) the applicant has deliberately falsified information submitted as part of the grant application;

(e) the Department determines that the applicant has proposed expenditures for grant project activities or components that are unnecessary or that exceed the usual and customary costs for such activities or components;

(f) there are insufficient grant funds in the solid waste planning grants fund;

(g) the grant application is ranked lower by the Department than other proposals based on the factors described in Rule 3.3(B)(5); and

(h) other appropriate factors as determined by the Commission on Environmental Quality.

(2) Should the Department refuse to approve a grant application for any reason, the applicant may request a hearing before the Commission in accordance with Section 49-17-35, Mississippi Code, Annotated.

D. Conditions of Grant Award

(1) The grantee shall comply with all applicable procurement and purchasing regulations established pursuant to state law.

(2) The grantee shall ensure that the development and adoption of the local solid waste management plan shall be conducted in a manner consistent with the applicable state laws and regulations and with the comprehensive planning guidance provided by the Department for the development of a local solid waste management plan.

(3) Upon completion of the grant project and adoption of the resulting plan, the grantee shall provide three official copies of the local solid waste management plan to the Department for review and consideration. Two of the copies shall be hard copies of the plan and one copy shall be an electronic version. The grantee shall also retain a sufficient number of copies of the plan for its own continual review and implementation.

(4) At the discretion of the Commission, monies which are unspent after the grant expiration date shall be forfeited back to the solid waste planning grants fund.

(5) The grantee's matching share, if applicable, shall be expended or committed in proportion to the release of state grant funds.

(6) A summary report shall be prepared and submitted to the Department with each reimbursement request, detailing the cost of the planning project and a summary of the activity conducted during the payment period.

(7) The Commission may include other conditions as part of the grant award, which are determined necessary to ensure that the planning provisions of state law and regulations are followed.

APPENDIX

Intergovernmental Review Process

1. If the applicant proposes new facilities for construction and/or use, the following agencies shall be consulted prior to the formal submittal of a grant application concerning the proposed site location and the existence of any known or possible archaeological/cultural sites, endangered wildlife, wetlands, shellfish/coastal program impacts:

   (a) Mississippi Department of Archives & History (For archaeological/cultural review);

   (b) Mississippi Natural Heritage Program (For endangered wildlife review);

   (c) U.S. Army Corps of Engineers (For wetlands review);

   (d) Mississippi Department of Marine Resources (For shellfish/coastal review - Jackson, Harrison, and Hancock County projects only).

2. Where applicable, a written description of the project plan shall be submitted to the agencies listed in this section with a request for written comments and a determination on any required surveys, permits, or other actions.

   Documentation of the applicant's request for comments, and any comments received in response to such request, shall be attached with the grant application, as required in Section B.1.c of these regulations.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 49-2-9(1)(b), 49-17-17(i), 17-17-201, et seq., 17-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.*

Part 4, Chapter 4: Mississippi Commission on Environmental Quality Waste Tire Management Regulations

TABLE OF CONTENTS

Rule 4.1 Applicability

Rule 4.2 Definitions

Rule 4.3 Waste Tire Collection Sites

Rule 4.4 Waste Tire Processing Facilities

Rule 4.5 Waste Tire Disposal Sites

Rule 4.6 Financial Responsibility Requirements

Rule 4.7 Agriculture, Erosion Control, or Other Uses of Waste Tires

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Rule 4.1 Applicability.

A. Except as provided in Rules 4.1.(B), (C), (D), and (E), these requirements shall apply to persons who store, process, or dispose of waste tires.

B. Waste tire generators which chop, cut, shred or vertically slice waste tires that they generate in a manner consistent with Rule 4.4(B), on the site of generation, in order to facilitate recycling, resource recovery, or disposal at an approved waste tire disposal site are exempt from the permitting requirements of Rule 4.4(A).

C. Any tire retailer, tire wholesaler, motor vehicle dismantler, or salvage dealer who owns or operates a waste tire collection site is exempt from the requirements of Rule 4.3(A) if the site does not:

(1) hold more than five hundred (500) waste tires, or
(2) hold more than one hundred waste tires for a period exceeding ninety days.

D. Facilities or businesses which receive reusable and/or waste tires for purposes such as retreading or resale are not considered to be waste tire processing facilities; however, such facilities that store more than 500 waste tires on site, or that store 100 or more waste tires for more than 90 days, shall be considered to be waste tire collection sites.

E. Persons who propose to use waste tires for agricultural, erosion control and other purposes as approved by the Department are exempt from the authorization requirements of Rule 4.3(A) if the site does not store more than 500 waste tires, except as provided in Rule 4.7(C).

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401 et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., 49-2-1, et seq.*

Rule 4.2 Definitions

A. "Commission" means the Mississippi Commission on Environmental Quality.

B. "Department" means the Mississippi Department of Environmental Quality.

C. “Mobile waste tire processing equipment” means a mobile waste tire processing operation which does not operate at any one fixed facility for more than ninety (90) days annually.

D. “Motor vehicle” means an automobile, motorcycle, trailer, semi-trailer, truck tractor and semi-trailer combination, farm equipment or any other vehicle operated on the roads of the state, used to transport persons or property, and propelled by power other than muscular power, but does not include traction engines, road rollers, earth movers, graders, loaders, and other similar construction equipment requiring oversized tires, any vehicles which run only upon a track, bicycles or mopeds. For purposes of this article, “farm equipment” means any vehicle which uses tires having the following designations: I-1, I-2, I-3, R-l, R-2, R-3, F-l, F-2, and Farm Highway Service.

E. “Reusable tire” means a whole tire which has been specifically separated from waste tires for and which is suitable for processing or resale for its original intended purpose. A used tire which appears to be suitable for its original intended purpose, but which has not been separated from waste tires for such purposes shall be considered to be a waste tire.

F. “Tire” means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

G. “Waste tire” means a whole tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

H. “Waste tire collection site” means a site used for the storage of 100 or more waste tires.

I. “Waste tire disposal site” means a site where tires are buried or incinerated in a manner that does not facilitate recycling, resource recovery, or reuse of the waste tires or its by-products.

J. “Waste tire generator” means any person who produces or stores waste tires on property owned or leased by that person.

K. “Waste tire hauler” means any person engaged in the collection and/or transportation of 50 or more waste tires for the purpose of storage, processing, or disposal or any person transporting waste tires for compensation.

L. “Waste tire processing facility” means a site where tires are reduced in volume by shredding, cutting, chopping, or otherwise altered to facilitate recycling, resource recovery, or disposal. The term includes mobile waste tire processing equipment. Commercial enterprises processing waste tires shall not be considered solid waste management facilities.

M. “Waste tire transporter” means any person engaged in the transportation of waste tires.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401 et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 4.3 Waste Tire Collection Sites.

A. (1) A person must obtain written authorization from the Department to operate a waste tire collection site. The person normally required to obtain authorization shall be the owner or leasee of the operation. In order to obtain authorization, a person must complete an application supplied by the Department, and comply with the applicable requirements and regulations.

(2) In certain instances, the Permit Board may require that a permit be obtained to operate a waste tire collection site. In determining whether a permit should be required, the Permit Board shall consider the quantity of waste tires to be stored on site, the location of the site, and any other relevant factors which would warrant special concern. Where a permit is required, the same application shall be completed and the same process followed as required in Rule 4.3(A)(1), although the Department may require additional information as part of the application.

(3) Persons operating waste tire collection sites which are not an integral part of a waste tire processing facility may obtain authorization or a permit only if the applicant is able to demonstrate with an executed contract or other document that each waste tire collected on site will be processed or removed within a reasonable time frame not to exceed 90 days.

B. A person operating a waste tire collection site in which waste tires are stored indoors shall comply with the following technical and operational standards:

(1) Each waste tire storage pile shall have no greater dimensions than 25 feet wide and 50 feet long.

(2) Storage clearance in all directions from roof structures shall not be less than 3 feet.

(3) The width of main aisles between piles shall be not less than 8 feet.

(4) Depending upon the number of tires to be stored at a facility and the location of the facility, an automatic sprinkler system may be required.

(5) Storage clearance from the top of storage to sprinkler deflectors shall not be less than 3 feet.

(6) Tires shall be stored clear of all blower and exhaust ducts.

(7) Storage clearance from unit heaters, radiant spaceheaters, duct furnaces, and flues shall not be less than 3 feet in all directions.

(8) Clearance shall be maintained to lights or light fixtures to prevent possible ignition.

(9) Clearance shall be maintained to all entrance ways, exits, and fire doors.

(10) The person operating the site shall control mosquitos and rodents so as to protect the public health and welfare and to prevent public nuisances. These actions may include periodic application of an approved mosquito controllant to the waste tire storage pile, the frequency of which should increase during warm/wet weather periods of the year.

C. A person operating a waste tire collection site in which waste tires are stored outdoors must comply with the following technical and operational standards:

(1) Each waste tire storage pile shall have no greater dimensions than 15 feet high, 50 feet wide, and 100 feet long.

(2) A minimum separation distance of 50 feet shall be maintained between waste tire storage piles as a fire lane. Access to the fire lane for emergency vehicles must be unobstructed at all times.

(3) The site shall be kept free of grass, underbrush, and other potentially flammable vegetation at all times.

(4) The person operating the site shall control mosquitos and rodents so as to protect the public health and welfare. These actions may include periodic application of an approved mosquito controllant to the waste tire stockpile, the frequency of which should increase during warm/wet weather periods of the year.

(5) Waste tire storage piles should generally be kept at least 50 feet from the adjacent property line. However, an alternate separation distance may be approved by the Department contingent upon such factors as date of facility establishment, quantity of waste tires stored, nature of business operations,

(6) surrounding property use, and other factors.

(7) Access to the site shall be controlled through the use of fences gates, natural barriers or other means.

D. A person may receive approval to operate a waste tire collection site in which waste tires are stored in trailers, vans, or other mobile storage facilities.

E. The Department shall establish the maximum storage capacity of waste tire collection sites on a site specific basis. A site shall normally not store more than 5,000 tires at any

time. However, the waste tire storage limit may also be affected by such site specific conditions as the amount of storage area available, local laws or ordinances, the general land use of the surrounding properties and other pertinent factors. The Department may consider requests for approval of storage limits in excess of 5,000, provided that the person operating the site can adequately demonstrate that such an increase will not result in problems of mosquito breeding, harborage of rodents, potential fire hazards or compliance problems.

F. Persons who operate waste tire collection sites at which reusable tires are separated from waste tires for processing or resale for their original intended purpose shall store the reusable tires in a manner consistent with Rules 4.3(B) and 3(C) of these requirements. Furthermore, such tires shall be removed from the collection site on a frequency sufficient to prevent problems of mosquito breeding, harborage of rodents, potential fire hazards or compliance problems.

G. All waste tires shall either be processed or removed from the site within a reasonable time frame not to exceed 90 days. The Department may approve an alternate storage duration contingent upon the quantity of waste tires stored and other operating conditions of the facility.

H. If the waste tire collection site receives tires from persons other than the operator of the site, a sign shall be posted at the entrance of the site stating operating hours. An attendant shall be present at the site at all operating hours of the facility.

I. Fire protection services for the waste tire collection site shall be assured through notification of local fire protection authorities and compliance with any local fire codes or ordinances.

J. In the event that a fire should occur at the site, the person operating the site shall initiate immediate action to extinguish the fire and to limit the off-site impact of said fire and shall notify the Department as soon as possible.

K. A person operating a waste tire collection site shall comply with the transportation and certification requirements of the Waste Tire Transportation Regulations as adopted by the Commission.

L. A person operating a waste tire collection site shall maintain the following records for a minimum of three years after the date of removal of the tires:

(1) for waste tire loads of five (5) or more received at the site, the name and waste tire hauler identification number of the hauler who delivered the waste tires to the facility and the quantity of waste tires received from that hauler; or the name, address, and telephone number of the waste tire transporter and the quantity of tires received from that transporter;

(2) for waste tire loads of five (5) or more shipped from the site, the name and waste tire hauler identification number of the hauler who transported the tires from the site and the quantity of waste tires shipped with that hauler; or the name, address, and telephone number of the waste tire transporter and the quantity of tires shipped with that transporter;

(3) for waste tire loads of five (5) or less received or shipped from the site, the total monthly quantity of waste tires received and the total monthly quantity of waste tires shipped for all transporters; and

(4) where applicable, the quantity of reusable tires separated from incoming loads at the site and the retreading/resale facility to which they are shipped.

M. A person operating a waste tire collection site which receives tires from persons other than the operator shall submit a monthly report on forms provided by the Department, detailing the information required by Rule 4.3(L) as well as other activities at the collection site. This monthly report shall be submitted to the Department before the 15th of the following month. The Department may waive this requirement for small local government waste tire collection sites.

N. As a part of the application for an operating permit required pursuant to Rule 4.3(A), the applicant shall submit a closure plan which includes:

(1) a description of how and when the area will be closed;

(2) the method of final disposition of any waste tires remaining on the site at the time notice of closure is given to the Department.

(3) Proof of financial responsibility pursuant to Rule 4.6 of these regulations.

O. A person operating a waste tire collection site shall implement the closure plan required pursuant to Rule 4.3(N) and shall take the following actions to ensure that the site is properly closed upon cessation of operations:

(1) notify the Department at least ninety (90) days prior to the date of expected closure.

(2) take action to prevent public access to the site;

(3) post a notice at the site indicating that the site is closed;

(4) take action to ensure that all tires at the site have been properly processed, disposed, or otherwise managed;

(5) take other appropriate remediation action at the site if deemed necessary by the Department; and

(6) notify the Department upon completion of the closure activity.

P. No waste tires may be received by the waste tire collection site after the date of closure.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401 et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 4.4 Waste Tire Processing Facilities.

A. (1) Except as provided in Rule 4.4(A)(2), a person must obtain a waste tire management permit from the Permit Board in order to operate a waste tire processing facility. The person normally required to obtain a permit shall be the owner or lessee of the operation. In order to obtain a permit, a person must complete an application supplied by the Department, and comply with the applicable requirements and regulations. A waste tire management permit shall be issued in accordance with the permit procedures for solid waste management permits in Rule 1.2 of the Mississippi Nonhazardous Solid Waste Management Regulations.

(2) A person operating mobile waste tire processing equipment where such equipment is moved from site to site must obtain authorization from the Department in order to operate the processing equipment. The person normally required to obtain a permit shall be the owner or lessee of the equipment. In order to obtain authorization, a person must complete an application supplied by the Department, and comply with the applicable requirements and regulations.

(3) A person operating a waste tire processing facility which is not an integral part of a solid waste landfill, waste tire disposal site, or waste tire recycling facility may obtain a permit only if the applicant is able to demonstrate with an executed contract or other document that the waste tires processed on site will be removed to a solid waste landfill, waste tire disposal site, waste tire recycling facility, or other site or facility approved by the Department. This requirement does not apply to persons operating mobile processing equipment in accordance with Rule 4.4(A)(2).

B. The following are permissible methods of waste tire processing:

(1) Slicing vertically, resulting in each waste tire being divided into at least two (2) approximately equal donut-shaped halves;

(2) Chopping or cutting of the waste tire into a minimum of four (4) approximately equal pieces.

(3) Shredding or chipping into multiple pieces;

(4) Grinding into crumbs;

(5) Other methods as approved by the Commission.

C. Except for the conditions of Rules 4.3(A), (E) and (G) waste tire processing facilities shall comply with Rule 4.3 of these regulations for waste tire collection sites with regard to the storage of both waste and processed tires.

D. A waste tire processing facility may not accept waste tires for processing if it has reached its waste tire storage limit. The waste tire storage limit for processing facilities shall be established by the Department on a site specific basis, and shall be no more than 7 times the daily through-put of the processing site. (In determining the daily through-put of the processing facility the person operating the site should take into consideration the average through-put capacity of the processing equipment as well as expected downtime of the equipment.) The waste tire storage limit may also be affected by site specific conditions such as amount of storage space available, local government laws or ordinances, the use of the surrounding properties, and other pertinent factors. The Department may consider requests for storage limits in excess of the general waste tire storage limit, if the person operating the facility can adequately demonstrate that the storage site will be maintained in a manner that will preclude mosquito breeding, harborage of rodents, and potential fire hazards.

E. A waste tire processing facility may not exceed its processed tire storage limit. The processed tire storage limit shall be established by the Department on a site-specific basis. If the storage of processed tires is necessary for recycling or reuse of the subject material, the processed tire storage limit shall generally be 30 times the daily through-put of the processing facility. If the processed tires are destined for disposal, the processed tire storage limit shall, as a minimum not exceed 7 times the daily through-put of the facility. These processed tire storage limits may also be affected by the degree of processing that the tire has undergone, the manner of storage proposed, storage space available, local government laws or ordinances, the general land use of the surrounding properties, and other pertinent factors. The Department may consider requests for storage limits in excess of the general processed tire storage limits, if the person operating the facility can adequately demonstrate that the storage pile will be maintained in a manner that will preclude mosquito breeding, harborage of rodents, potential fire problems and that storage of the processed tires is necessary for recycling or reuse of the subject material.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401 et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 4.5 Waste Tire Disposal Sites.

A. A person must obtain a permit from the Mississippi Environmental Quality Permit Board or from the Board's designee in order to operate a waste tire disposal site as described in

Rule 1.2 of the Mississippi Nonhazardous Waste Management Regulations, subject to the provisions of Section 17-17-407 of the Mississippi Code Annotated. The person normally required to obtain a permit shall be the owner or operator of the facility. In order to obtain a permit, a person must complete an application supplied by the Department and comply with the applicable requirements and regulations.

B. Persons who operate permitted solid waste landfills, approved rubbish disposal sites and/or approved waste tire monofills shall not accept whole waste tires for disposal. Processed tires which meet or exceed the conditions of Rule 4.4(B) of these regulations may be disposed of at said facilities as per the conditions of the Mississippi Nonhazardous Waste Management Regulations. Existing rubbish landfills which intend to accept processed tires must request authorization from the Department to accept said materials. This request must include, at a minimum, a description of the processed form in which the tires will be landfilled, the estimated amounts and sources of the tires, and a description of how the tires will be managed at the site.

C. Persons who operate permitted solid waste landfills or rubbish sites may establish waste tire collection sites or waste tire processing facilities at or adjacent to said facilities subject to the conditions of Rules 4.3 and 4.4 of these regulations, the conditions of the Mississippi Nonhazardous Waste Management Regulations, and the conditions of the subject landfill facility's operating permit.

D. Persons who operate landfill sites at which tires are monofilled or disposed of with rubbish materials shall comply with the following operational conditions:

(1) The active waste disposal area shall be covered with 6 inches of dirt at least every two weeks. This cover frequency may be increased or decreased by the Department contingent upon such site specific conditions as the degree of processing that the waste tires have undergone, the availability of cover dirt, the site's performance history and other pertinent factors.

(2) Adequate fire prevention measures shall be taken at the site including notification of the local fire protection authorities and maintenance of an adequate dirt stockpile adjacent to the active disposal area as a fire extinguishment measure.

E. Persons who operate incineration units, pyrolysis systems and other air emissions equipment which propose to burn processed tires shall comply with Rules 4.3(B),(C),(I),(J),(N) and (P), and 4.4(E) of these regulations regarding the storage of processed tires. Said facilities which burn whole waste tires shall comply with all of Rule 4.3, except Rule 4.3(E), and shall comply with Rule 4.4(D) of these regulations.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 4.6 Financial Responsibility Requirements.

A. Persons who operate waste tire collection sites or waste tire processing facilities shall estimate the costs of processing and disposal of the maximum number of waste tires/processed tires expected on site before closure of the facility, and must update such estimates annually, unless an alternate schedule is approved by the Department. Cost estimates must be approved by the Department. The costs shall be based on a third party performing the work, reported on a per unit basis. Such persons shall provide the Department with proof of financial responsibility issued in the amount of such approved estimate for closure of the facility. Proof of financial responsibility may include the following financial instruments: escrow accounts, surety bonds, including performance bonds or financial guarantee bonds; irrevocable letters of credit; certificates of deposit; securities; and other documents, approved by the Department. The financial instruments shall be issued by a surety company or financial institution licensed to do business in the State of Mississippi. Persons operating an authorized solid waste management landfill which includes a waste tire collection site/waste tire processing facility as a part of their operations and whose proof of financial responsibility for closure of the landfill is deemed adequate by the Department to cover closure costs of the waste tire collection site/waste tire processing facility, may not be required to submit new documentation of financial responsibility. The Department may, in its discretion, exempt certain persons from these financial assurance requirements based on the duration of the proposed project and the quantity of tires to be managed by the project.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 4.7 Agriculture, Erosion Control, or Other Uses of Waste Tires.

A. Waste tires which have been processed as described in Rule 4.4(B) may, upon the approval of the Department, be used for erosion control. The Department may consider requests to use tires which have been processed by other means on a site specific basis.

B. Waste/processed tires used for agricultural and erosion control purposes shall be stored/stockpiled, while not in use, in a manner which precludes mosquito breeding problems, rodent harborage, and potential fire hazards.

C. Waste/processed tires used for erosion control or other civil engineering purposes shall not remain stockpiled on site for more than 90 days unless a waste tire collection site permit is obtained.

D. Waste/processed tires used for agricultural or other approved purposes shall upon completion of use be deposited for disposal or recycling at a properly permitted waste tire collection site, waste tire processing facility, or waste tire disposal site.

E. The Department may approve other uses of waste/processed tires upon a site specific basis provided that the user can demonstrate that the waste tires will be managed properly and will either result in a legitimate end use of the waste tire or proper disposal upon completion of the subject project.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Part 4, Chapter 5: Mississippi Commission on Environmental Quality Waste Tire Transportation Regulations

TABLE OF CONTENTS

Rule 5.1 Applicability

Rule 5.2 Definitions

Rule 5.3 Waste Tire Generator Requirements

Rule 5.4 Waste Tire Transporter Requirements

Rule 5.5 Waste Tire Hauler Requirements

Rule 5.6 Waste Tire Collection, Processing and Disposal Site Requirements

Rule 5.7 Enforcement Authority and Penalties

*Rule 5.*1 *Applicability*.

A. Except as provided in Rule 5.1(B), (C), (D) and (E), these requirements shall apply to waste tire generators, transporters, haulers, and the owners/operators of waste tire collection, processing and disposal sites concerning the transportation of waste tires in Mississippi, including instances where

(1) waste tires are transported into the State of Mississippi from out-of-state generators for the purposes of storage, processing, disposal, or retreading/ resale in Mississippi, or for transportation through the State to destinations outside Mississippi; and where

(2) waste tires originating in Mississippi are transported outside the State for the purposes of storage, processing, disposal or retreading/resale in another state.

B. Certification requirements of Rules 5.3(A) and (B), 5.4(A), (B) and (C), and 5.6(A) and (B) shall not apply to:

(1) tires that are provided for storage, processing, disposal or retreading/resale in quantities of five (5) or less by a person other than a waste tire collector, waste tire processor, or waste tire hauler, or

(2) tires transported within or into the State of Mississippi, where such tires were neither generated in the state nor destined for storage, processing, disposal, or retreading/resale in the state.

C. The requirements of Rule 5.5(C) and (D) shall not apply to waste tire haulers when the tires being transported are neither generated in the state nor destined for storage, processing, disposal, or retreading/resale in the state.

D. These requirements shall not apply to the transportation of reusable tires to facilities or businesses which process or sell such tires. However, for the purposes of these requirements all used tires shall be considered to be waste tires until such time that those tires which are reusable tires have been specifically separated from the waste tires.

E. Facilities or businesses which receive reusable and/or waste tires for purposes such as retreading or resale are not considered to be waste tire processing facilities; however, such facilities that store more than 500 waste tires on site, or that store 100 or more waste tires for more than 90 days, may be considered to be waste tire collection sites.

F. For purposes of this regulation, tires which have been cut, chopped, sliced, shredded or otherwise processed into multiple pieces shall be considered to be waste tires.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 5.2 Definitions.

A. For purposes of this regulation, the following definitions apply:

(1) “Department" means the Mississippi Department of Environmental Quality.

(2) "Reusable tire" means a whole tire which has been specifically separated from waste tires for and which is suitable for processing or resale for its original intended purpose. A used tire which appears to be suitable for its original intended purpose, but which has not been separated from waste tires for such purposes shall be considered to be a waste tire.

(3) "Waste tire" means a whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(4) "Waste tire collection site" means a site used for the storage of 100 or more waste tires.

(5) "Waste tire disposal site" means a site where tires are buried or incinerated in a manner that does not facilitate recycling, resource recovery, or reuse of the waste tires or its by-products.

(6) "Waste tire generator" means any person who produces or stores waste tires on property owned or leased by that person.

(7) "Waste tire hauler" means any person engaged in the collection and/or transportation of 50 or more waste tires for the purposes of storage, processing, or disposal or any person transporting waste tires for compensation.

(8) "Waste tire processing facility" means a site where tires are reduced in volume by shredding, cutting, chipping or otherwise altered to facilitate recycling, resource recovery, or disposal. The term includes mobile waste tire processing equipment. Commercial enterprises processing waste tires shall not be considered solid waste management facilities.

(9) "Waste tire transporter" means any person engaged in the transportation of waste tires.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 5.3 Waste Tire Generator Requirements.

A. A waste tire generator providing waste tires for transportation to a facility for storage, processing, disposal, or retreading/resale shall complete and sign a certification form as provided by the Department certifying the following:

(1) the number of waste tires to be transported or in the event that the waste tires have been cut, chopped, sliced, shredded or otherwise processed into multiple pieces, the volume of processed waste tires to be transported;

(2) the county and state in which the tires were collected; and

(3) the name and address of the waste tire processing, storage, disposal or retreading resale facility for which the tires are destined.

B. The waste tire generator, after completing all applicable portions of the certification form, shall provide the form to the person transporting the waste tires for his completion and signature, and shall retain a copy of the certification form signed by the waste tire generator and the waste tire transporter for at least three (3) years.

C. The waste tire generator shall only allow a registered waste tire hauler who possesses a valid identification number pursuant to Rule 5.5(A) to collect and transport waste tires, if:

(1) 50 or more tires are transported, or

(2) if the transporter is compensated by the generator for such service.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 5.4 Waste Tire Transporter Requirements.

A. A waste tire transporter shall complete and sign the certification form initially completed by the waste tire generator, certifying the receipt of waste tires from the waste tire generator.

B. The waste tire transporter shall not transport a waste tire load from the generator's site, unless the waste tire generator has completed and signed all applicable portions of the certification form.

C. The waste tire transporter shall present the certification form to the owner/operator of a waste tire collection, processing, disposal or retreading/resale site at the time of delivery of the tires for storage, processing, disposal or retreading/resale and shall retain a copy of the completed certification form containing all signatures for at least three (3) years.

D. Persons transporting wastes tires shall not deposit the tires for storage, processing, disposal or retreading/resale within the State of Mississippi except at an appropriately authorized waste tire collection, processing, disposal site, at a retreading/resale facility or at another facility approved by the Department to accept waste tires.

E. A waste tire transporter who hauls 50 or more waste tires for storage, processing or disposal or who hauls tires for compensation shall obtain a valid identification number pursuant to Rule 5.5(A).

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 5.5 Waste Tire Hauler Requirements.

A. From and after January 1, 1992, any waste tire hauler transporting waste tires within or into the state must register with the Department of Environmental Quality and obtain a waste tire hauler identification number. The Department may consider the compliance history of the applicant and may deny the issuance of an identification number if it finds that the applicant has committed significant or habitual violations of pollution control laws.

B. Waste tire haulers shall submit a registration application to the Department to receive the waste tire hauler identification number. Proof of obtaining this identification number shall be kept at all times on all vehicles used to transport waste tires. Registration applications should be submitted on forms as provided by the Department at least 14 days before the waste tires hauler intends to begin transporting waste tires. The waste tire hauler shall renew this registration by July 1 of each year after the initial registration and

should submit the renewal application at least 30 days prior to the registration expiration date.

C. A waste tire hauler shall record and maintain for three years the following information regarding its activities for each three month period of operation:

(1) The approximate quantity of waste tires hauled

(2) Where or from whom the waste tires were received.

(3) Where the waste tires were deposited.

Records shall be available for inspection by Department personnel during normal business hours.

D. Waste tire haulers shall submit to the Department an annual report that summarizes the information collected under Rule 5.5(C) above for the previous calendar year. The information shall be submitted on forms as provided by the Department. This report shall be submitted to the Department in conjunction with submittal of the annual renewal application, or if no renewal application is submitted, the report shall be submitted by July 1 after the calendar year.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 5.6 Waste Tire Collection, Processing, and Disposal Site Requirements.

A. The owner/operator of a waste tire collection, processing, or disposal site, retreading/resale facility, or other facility approved to accept waste tires shall not accept waste tires unless the waste tire transporter provides a certification form which has been completed and signed by both the waste tire generator and transporter.

B. The owner/operator of a waste tire collection, processing, or disposal site, retreading/resale facility, or other solid waste management facility receiving waste tires shall sign the certification form and shall retain a copy of said form containing all signatures, for at least three years.

C. The owner/operator of a waste tire collection, processing or disposal site, retreading/resale facility or other facility approved to accept waste tires shall not accept 50 or more waste tires from any person unless the transporter is a registered waste tire hauler who possesses a valid identification number pursuant to Rule 5.5(A).

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Rule 5.7 Enforcement Authority and Penalties.

A. Any person who fails to comply with this rule is subject to having their waste tire hauler identification number or waste tire collection, processing, or disposal site permit, approval, or authorization revoked, as well as other penalties provided by law.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 17-17-401, et seq., 49-2-9(1)(b), 49-17-17(i), 49-17-1, et seq., and 49-2-1, et seq.*

Part 4, Chapter 6: Mississippi Commission on Environmental Quality Nonhazardous Solid Waste Corrective Action Trust Fund Regulations

TABLE OF CONTENTS

Rule 6.1 Definitions

Rule 6.2 Eligibility for Reimbursement

Rule 6.3 Administrative Procedures for Reimbursement

Rule 6.4 Reimbursable Costs

Rule 6.5 Prioritization of Funds

Rule 6.1 Definitions.

A. Closure - activities conducted by the owner to properly secure a solid waste disposal facility in such a manner as to prevent or reduce the potential for contaminants to be released to an off-site location or to prevent or minimize the possibility of persons being exposed to the solid wastes disposed at the facility.

B. Corrective Action - actions considered necessary to assess and remediate contaminants at a nonhazardous solid waste management facility. In the case of an emergency, corrective action is the necessary action to eliminate the immediate or future threat to human health and the environment or to reduce said threat to a level acceptable by the Mississippi Department of Environmental Quality.

C. Commission - Mississippi Commission on Environmental Quality.

D. Department - Mississippi Department of Environmental Quality.

E. Household Waste - any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

F. Mississippi Nonhazardous Solid Waste Corrective Action Trust Fund (Trust Fund) -a fund established for the purpose of providing reimbursements for the costs of emergency, preventive or corrective actions which may be required or determined necessary by the Department of Environmental Quality of any private and publicly owned nonhazardous solid waste disposal facility which received in whole or in part household waste and which closed prior to the effective date of Title 40 of the Code of Federal Regulations, Section 258.

G. Owner - the person to whom the Department issued a permit to operate a nonhazardous solid waste disposal facility and who was the permittee at the time the facility closed. In cases where the current owner of the facility property is different from the permittee, the Commission may declare the current property owner to be the owner or co-owner of the facility.

H. Post-Closure Care - those actions that are conducted after the closure of a nonhazardous solid waste disposal facility in order to maintain the integrity and effectiveness of any closure action and that are required by the Department to monitor the site and to continue the removal of any potential contaminants which may migrate from the site. Post-closure care may also include prevention of ponded water and migration of leachate and methane gas.

I. Solid waste disposal facility - any facility used for the purpose of disposing of nonhazardous solid waste, and receiving in whole or in part household waste at some time during its operation.

Source: Miss Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.2 Eligibility For Reimbursement.

A. Only those nonhazardous solid waste disposal facilities which received in whole or in part household waste and which closed prior to the effective date of Title 40 of the Code of Federal Regulations, Section 258, are eligible for receiving funds from the Trust Fund.

B. The Commission may utilize funds in the Trust Fund for the following purposes:

(1) to take whatever emergency action is necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release or substantial threat of a release of contaminants from any source within the permitted area of an eligible facility;

(2) to take preventive or corrective actions where the release of contaminants from any source within the permitted area of an eligible facility presents an actual or potential threat to human health or the environment including, but not limited to, closure and post-closure care of an eligible facility; and

(3) to take such actions as may be necessary to monitor and provide post-closure care of any eligible facility, including preventive and corrective actions, without regard to identity or solvency of the owner thereof

C. The Trust Fund may not be used to pay for the normal costs of closure and post-closure care of an eligible facility or where no release or substantial threat of a release of contaminants has been found by the Commission.

D. Expenditures may be made from the Trust Fund upon requisition by the Executive Director of the Department for payment directly to an owner or to a contractor of the Department.

Source: Miss Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.3 Administrative Procedures For Reimbursement.

A. If an owner of a nonhazardous solid waste disposal facility has sufficient evidence that a release or substantial threat of a release of contaminants from a facility exists, he shall notify the Department and submit all such evidence to the Department.

B. If the Commission determines that a release or substantial threat of a release exists at an eligible facility, either from evidence submitted by an owner or another person, or from evidence compiled by the Department itself the Commission shall determine what actions, if any, are necessary.

C. The owner of the facility shall be responsible for obtaining the services of qualified personnel or contractors to conduct remedial investigations, monitoring activities, develop remedial design plans, or to otherwise conduct activities eligible for reimbursement from the Trust Fund.

D. Site assessments, installation of monitoring wells and other activities associated with remedial investigations shall be conducted by a person who complies with the following criteria:

(1) The person must have a minimum of three years experience as an environmental consultant;

(2) the person must have conducted remedial investigations or corrective actions at a minimum of two other sites; and

(3) the person must possess a certificate of professional liability insurance in an amount not less than one million dollars ($1,000,000.00).

The Department may require that documentation be submitted demonstrating that the person conducting the work described in this paragraph complies with the above criteria.

E. All engineering and remediation plans must be designed and certified by a professional engineer or engineering company that complies with the following criteria:

(1) The professional engineer must be licensed to practice in the State of Mississippi, or, in the case of an engineering company, the company must employ in a full-time capacity (40 hours per week) at least one professional engineer licensed to practice in the State of Mississippi;

(2) the professional engineer or engineering company must have previously conducted remedial investigations and/or corrective actions at a minimum of two other sites; and

(3) the professional engineer or engineering company must possess a current certificate of professional liability insurance in an amount not less than one million dollars ($1,000,000)

The Department may require that documentation be submitted demonstrating that the engineer or engineering company conducting work described in this paragraph complies with the above criteria.

F. All remedial activities conducted by a general contractor must be done by a contractor that complies with the following criteria:

(1) The contractor must hold a current certificate of responsibility issued by the State of Mississippi Board of Contractors;

(2) the contractor must possess a current certificate of contractors general liability insurance in an amount not less than one million dollars ($1,000,000); and

(3) if water wells are to be drilled for monitoring purposes, the contractor must be licensed with the Mississippi Department of Environmental Quality, Office of Land & Water Resources.

The Department may require that documentation be submitted demonstrating that the contractor conducting work described in this paragraph complies with the above criteria.

G. The Department may require competitive bidding of general contractors in order to ensure reasonable and fair costs.

H. If the owner of the facility cannot be identified or located, or if the owner does not take prompt corrective action as directed by the Commission or Department, the Department may execute a contract with a third party to conduct whatever action is determined necessary by the Commission.

I. Unless the Department executes a contract directly with a third party pursuant to Rule 6.3(H) of this regulation, the Department shall make payments from the Trust Fund only to the owner of the facility.

J. Payments from the Trust Fund shall be 100% of the reasonable costs, as determined by the Department, and shall be made after submittal of an invoice and any other documents determined necessary by the Department.

K. No payments shall be made for any activity unless the activity and its costs have been approved by the Department prior to initiating the activity.

L. The Department may deny any reimbursement request incurred if it finds such request to be unreasonable, unnecessary, or that the costs were not incurred in accordance with these regulations or the procedures developed for managing the Trust Fund. Any owner who is denied reimbursement in whole or in part shall have the right to a hearing before the Commission.

Source: Miss Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.4 Reimbursable Costs.

The Trust Fund may be used to reimburse owners of a facility for costs incurred as a result of emergency actions, assessment or remediation of contaminants, long term monitoring where necessary, and to provide for post-closure care not considered to be normal costs.

It is the intent of these regulations to cover costs stated above. While determination of eligible costs must be made on a case-by-case basis, the following activities are considered eligible when performed in a diligent and fair manner and when prior approval of the Department has been obtained:

A. Development of remedial plans.

B. Drilling of soil borings.

C. Installation of groundwater monitoring wells.

D. Sampling and analysis of soil and groundwater.

E. Installation of groundwater recovery wells.

F. Removal of contaminants by approved methods.

G. Disposal or treatment of contaminated media.

H. Replacement of contaminated water supply wells.

I. Legal fees and costs, where such costs are necessary to ensure the proper conduct of any site assessment, preventive or corrective action, monitoring activity, or closure or post-closure activity. Examples of such costs include any legal documents necessary to obtain access to the adjoining property or legal costs associated with executing a contract. Legal costs associated with litigation regarding the site or facility are not eligible for reimbursement.

J. Other costs determined appropriate by the Commission for remediation of the site.

Source: Miss Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 6.5 Prioritization of Funds.

A. Whenever there are insufficient unencumbered funds to pay for the costs of all activities or facilities which have been identified as needing corrective action, the following factors shall be used by the Department in establishing priorities:

(1) Sites where methane gas in explosive concentrations has migrated from the property boundary and is threatening an adjacent inhabited building shall receive the highest priority.

(2) Sites or facilities which present a threat or potential threat to contaminate a drinking water supply that is currently being used by the public shall be given priority over those which present a threat or potential threat only to potential drinking water supplies.

(3) Where a threatened or potentially threatened drinking water supply is actually being used by the public, the number of persons currently using the water supply shall be considered.

(4) Where a threatened or potentially threatened drinking water supply is not being used by the public, the number of persons residing within one mile of the site or facility shall be considered.

(5) The degree of contamination found, including the areal extent of contamination, the depth of contamination, the concentration of contaminants, and the toxicity level of the specific contaminants, shall also be considered

Source: Miss Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Part 4, Chapter 7: Mississippi Commission on Environmental Quality Hazardous and Nonhazardous Solid Waste Applicant Disclosure Regulations

TABLE OF CONTENTS

Rule 7.1 Scope and Authority

Rule 7.2 Title and Suggested Citation Form

Rule 7.3 Definitions

Rule 7.4 Filing of Disclosure Statement

Rule 7.5 Content of Disclosure Statement Forms

Rule 7.6 Execution of Disclosure Statements

Rule 7.7 Changes in Circumstance Relevant to Disclosure Statement

Rule 7.8 Method of Reporting Changes in Circumstances.

Rule 7.9 Department May Require the Filing of a New Disclosure Statement

Rule 7.10 Staff May Call on Other State Agencies in Reviewing Disclosure Statements

Rule 7.11 Annual Update of Disclosure Statement

Rule 7.12 Failure to Annually Update Disclosure Statement

Rule 7.13 Disclosure Statement to be Public Records

Rule 7.14 Additional Information

Rule 7.15 Grounds for Refusal to Issue, Reissue or Transfer a Permit

Rule 7.16 Consideration of Facts and Mitigating Circumstances

Rule 7.17 Evidence of Rehabilitation

Rule 7.18 Reconsideration of Permit Based on Change in Circumstances

Rule 7.19 Regulations Severable

Rule 7.20 Administrative Appeals

Rule 7.21 The Commission on Environmental Quality May Waive Filing

Rule 7.22 Effective Date

Rule 7.1 Scope and Authority.

These Regulations are promulgated by the Mississippi Commission on Environmental Quality pursuant to Mississippi Code Annotated section 17-17-501 (Supp. 1993), as amended by House Bill No. 1345 effective March 29, 1994, et seq.. [Miss. Laws, 1991, ch. 583, Miss. Laws, 1992, ch. 583 and Miss. Laws, 1994, Ch. 540.], Mississippi Code Annotated section 17-17-27 (Supp. 1993) and Mississippi Code Annotated section 49-17-17 (Supp. 1993), for the purpose of implementing the provisions of those laws. These Regulations may be codified by the Mississippi Department of Environmental Quality as they are here presented or in such other order or form [i.e., number or letter designations] as the Mississippi Department of Environmental Quality, in its discretion, may decide. Please note: other regulations apply to persons seeking issuance, reissuance or transfer of permits to operate and/or construct a commercial nonhazardous solid waste management facility or commercial hazardous waste management facility.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.2 Title.

These Regulations shall be entitled Mississippi Commission on Environmental Quality Hazardous and Nonhazardous Solid Waste Applicant Disclosure Regulations.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.3 Definitions.

The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise. Terms not defined herein shall have their ordinary meanings unless such terms have a specialized meaning within the nonhazardous solid waste and hazardous waste field. Terms having such a specialized meaning are to be given that specialized meaning unless otherwise defined.

A. "Act" means Mississippi Code Annotated section 17-17-501 (Supp. 1993), as amended by House Bill No. 1345 effective March 29, 1994, et seq. [Miss. Laws, 1991, ch. 583, Miss. Laws, 1992, ch. 583 and Miss. Laws, 1994, Ch. 540.].

B. “Applicant" means any person (except a public agency) applying for a permit to operate and/or construct a commercial nonhazardous solid waste management facility or commercial hazardous waste management facility. If a public agency applies for a permit and proposes to operate a facility by contract, the contractor shall also be required to file a disclosure statement as described in Miss. Code Ann. Section 17-17-503 (Supp. 1993),

as amended by House Bill No.1345 effective March 29, 1994, and the Permit Board shall evaluate such statement as described in Miss. Code Ann. Section 17-17-505 (Supp. 1993).

C. "Application" means an application (other than an application submitted by a public agency) for the issuance, reissuance or transfer of a permit to operate and/or construct a commercial nonhazardous solid waste management facility or commercial hazardous waste management facility.

D. "Business concern" means any corporation, association, firm, partnership, trust, joint venture or other form of commercial organization.

E. "Chartered lending institution" means any bank or banking institution chartered under the laws of the United States or of any state.

F. "Commercial hazardous waste management facility" means any facility engaged in the storage, treatment, recovery or disposal of hazardous waste for a fee and which accepts hazardous waste from more than one (1) generator.

G. "Commercial nonhazardous solid waste management facility" means any facility engaged in the storage, treatment, processing or disposal of nonhazardous solid waste for compensation or which accepts nonhazardous solid waste from more than one (1) generator not owned by the facility owner.

H. "Commission" means the Mississippi Commission on Environmental Quality.

I. "Debt liability" means the total actual debt of an applicant business concern or any disclosed business concern including, but not limited to, bonds, debentures, notes, surety agreements, mortgages and loans of any kind, secured or unsecured, and other similar debt instruments.

J. "Department" means the Mississippi Department of Environmental Quality.

K. "Disclosure Statement" means the signed and sworn statement required by Miss. Code Ann. Section 17-17-503 (Supp. 1993), as amended by House Bill No. 1345 effective March 29, 1994, and Rules 1.1, et. seq. of this Chapter to be filed by each applicant at the time the application is filed, together with any other information required by the Permit Board to be furnished by the Applicant pursuant to these regulations.

L. "Enforcement Action" means any action that is pending or has concluded in a finding of violation or entry of a consent agreement resulting from an alleged violation of any

(1) environmental ordinance, regulation, rule or statute,

(2) environmental permit or

(3) order issued to prohibit, control or abate an environmental problem.

M. "Equity" means any ownership interest of an applicant or any disclosed person in a sole proprietorship or business concern including, but not limited to, the shares of a partnership and stock in a corporation.

N. "Individuals related within the third degree" means individuals related within the third degree according to the Civil Law. Such relatives would include parents, children, grandparents, grandchildren, brothers, sisters, uncles, aunts, nephews, nieces, great-grandparents and great-grandchildren of any disclosed individual. Such individuals related within the third degree must be disclosed if together they own a cumulative of five percent (5%) or more of the equity in or debt liability of a disclosed publicly traded corporation except when the disclosed public corporation is an investment company which is publicly traded or a chartered lending institution.

O. "Investment Company which is publicly traded" means a business concern, including a mutual fund, which engages primarily in the business of investing, reinvesting or trading in stock and securities and which uses its capital to invest in other companies. The equity stock and securities of an investment company which is publicly traded are registered under federal and state securities laws and publicly traded on a national or regional stock or securities exchange.

P. "Key employee" means any person employed by an applicant in a management capacity and empowered to make operational or financial management decisions with respect to nonhazardous solid waste or hazardous waste management operations of the business concern including, but not by way of limitation,

(1) the officer or other employee of the applicant located on and in charge of operations on the site that is the subject of the application and all persons in the applicant's chain of command above him [i.e., his supervisor, his supervisor's supervisor, etc.]; and,

(2) contractors, consultants, brokers or other persons performing duties or functions commonly performed in the industry by employees exercising discretion over the operations of the applicant, but shall not include employees primarily engaged in the physical or mechanical treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste.

Q. "Parent business concern" means a business concern that holds five percent (5%) or more of the debt or equity in the applicant business concern.

R. "Permit" means a permit to construct and/or operate a commercial nonhazardous solid waste management facility or commercial hazardous waste management facility.

S. "Permit Board" means the Mississippi Environmental Quality Permit Board.

T. "Person" means (unless stated otherwise) any individual, trust, firm, joint stock company, business concern, public or private corporation (including a government corporation), partnership, association, state or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision or the United States or any officer or employee thereof.

U. "Public agency" means any incorporated city or town, county, political subdivision, governmental district or unit, public corporation, public institution of higher learning, community college district, planning and development district or governmental agency created under the laws of the state.

V. "Publicly traded corporation" means a business concern, the equity securities of which are registered under federal and state securities laws and publicly traded on a national or regional stock or securities exchange.

W. "Sister business concern" means a business concern with which the applicant shares a common parent business concern, and which is located in the United States of America.

X. "Staff" means employees of the Mississippi Department of Environmental Quality.

Y. "Subsidiary business concern" means a business concern in which the applicant holds five percent (5%) or more of the business concern's debt or equity.

Z. "Transfer" means

(1) any sale, conveyance or assignment of the rights held by any person in any permit issued pursuant to these Regulations, except to applicant's parent business concern or wholly-owned subsidiary business concern for which all information required by these regulations has been previously disclosed in a disclosure statement pursuant to these regulations;

(2) any change of more than fifty percent (50%) of the equity ownership of the applicant over any period of time which results in a different majority ownership from that at the time of the last disclosure under these Regulations or the last action of the Permit Board regarding the permit (any person may be a new majority owner for purposes of this provision); or

(3) an action by the Permit Board modifying a permit or revoking and reissuing a permit to reflect the changes in ownership described in subparts (1) and (2), above.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.4 Filing of Disclosure Statement.

A. Every applicant (other than a public agency) for issuance, reissuance or transfer of a permit for the treatment, processing, storage or disposal of nonhazardous solid waste at a commercial nonhazardous solid waste management facility or hazardous waste at a commercial hazardous waste management facility shall file with the Permit Board at the time the application is filed a disclosure statement. All applicable information requested in the disclosure statement must be provided. If any questions in the disclosure statement are not applicable to the applicant, the applicant must so indicate.

(1) Public Agencies. If a public agency applies for a permit, the Permit Board shall consider the performance history of that agency as prescribed by Mississippi Code Annotated section 17-17-27 (Supp. 1993).

(2) Contractors for Public Agencies. If a public agency applies for a permit and proposes to operate a facility by contract with an individual or a business concern, such individual or business concern shall be required to file a disclosure statement as described in Miss. Code Ann. section 17-17-503 (Supp. 1993), as amended by House Bill No. 1345 effective March 29, 1994, and as provided by these Regulations. The Permit Board shall evaluate such statement as described in Miss. Code Ann. 17-17-505 (Supp. 1993) and in Rules 7.15 through 7.18 of these Regulations.

B. Where to File Disclosure Statements.

(1) An applicant seeking a permit to construct and/or operate a commercial nonhazardous solid waste management facility shall file a disclosure statement with the Head of the Office of Pollution Control, Office of Pollution Control, Mississippi Department of Environmental Quality, 515 East Amite Street, Jackson, MS 39201, P.O. Box 2261, Jackson, Mississippi 39225-2261.

(2) An applicant seeking a permit to construct and/or operate a commercial hazardous waste management facility shall file a disclosure statement with the Head of the Office of Pollution Control, Office of Pollution Control, Mississippi Department of Environmental Quality, 515 East Amite Street, Jackson, MS 39201, P.O. Box 2261, Jackson, Mississippi 39225-2261.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.5 Content of Disclosure Statement Forms. The disclosure statement shall be filed on forms supplied by the Department and shall contain the following information:

A. Applicant Identity. A description of the business structure of the entity making the application, i.e., whether the applicant is an individual, a partnership, a corporation or some other type of business concern.

B. Applicant Information.

(1) Individual. If the applicant is an individual, applicant's:

(a) Full name;

(b) Business address;

(c) Date of birth;

(d) Social security number;

(e) Business telephone number.

(2) Business Concern. If the applicant is a business concern, applicant's:

(a) Full name;

(b) Business address;

(c) Date of establishment;

(d) Federal employer identification number;

(e) Business telephone number.

C. Business Concern Applicant's Personnel. For each officer, director, partner or key employee of the applicant, such person's:

(1) Full name;

(2) Business address;

(3) Date of birth;

(4) Social security number;

(5) Business telephone number;

(6) Position, i.e., officer, director, partner, key employee.

D. Holders of Equity or Debt Liability in Business Concern Applicants.

(1) Business Concern Applicant that is not a Publicly Traded Corporation.

(a) If the business concern applicant is not a publicly traded corporation, for each person other than a business concern holding an equity interest in such applicant business concern, such person's:

(1) Full name;

(2) Business address;

(3) Date of birth;

(4) Social security number;

(5) Business telephone number;

(6) Percentage of equity held.

(b) If the business concern applicant is not a publicly traded corporation, for each business concern (other than an investment company which is publicly traded or a chartered lending institution) which is an equity holder of the applicant business concern, such business concern's:

(1) Full name;

(2) Business address;

(3) Date of establishment;

(4) Federal employer identification number;

(5) Business telephone number;

(6) Percentage of equity held.

(c) If the business concern applicant is not a publicly traded corporation, for each investment company which is publicly traded or chartered lending institution holding equity in such applicant business concern, such investment company's or lending institution's:

(1) Full name;

(2) Business address;

(3) Business telephone number;

(4) Percentage of equity held.

(d) If the business concern applicant is not a publicly traded corporation, a listing of all persons or business concerns holding debt liability in such applicant business concern shall be provided with such listing to include the following information for such persons or business concerns:

(1) Full name;

(2) Business address;

(3) Federal employer identification number, if applicable;

(4) Amount of debt liability held in U.S. Dollars; and

(5) Percentage of the total debt liability held.

For the purposes of Rule 7.5(D)(1)(d), persons and business concerns holding debt liability in the applicant business concern and disclosed pursuant to Rule 7.5(D)(1)(d) are not subject to further disclosure requirements and shall not be considered a "disclosed business concern" unless expressly requested by the permit board.

(2) Publicly Traded Corporation Applicant.

(a) If the applicant business concern is a publicly traded corporation, for individuals related within the third degree holding a cumulative of five percent (5%) and for any other person (other than a business concern) holding more than five percent (5%) of the equity in such publicly traded corporation, such person's:

(1) Full name;

(2) Business address;

(3) Date of birth;

(4) Social Security number;

(5) Business telephone number;

(6) Percentage of equity held.

(b) If the applicant business concern is a publicly traded corporation, for each business concern (other than an investment company which is publicly traded or a chartered lending institution holding equity or debt liability of a business concern disclosed in applicant's disclosure statement) holding more than five percent (5%) of the equity in such publicly traded corporation, such business concern's:

(1) Full name;

(2) Business address;

(3) Date of establishment;

(4) Federal employer identification number;

(5) Business telephone number;

(6) Percentage of equity held.

(c) If the applicant business concern is a publicly traded corporation, for each investment company which is publicly traded or chartered lending institution holding more than five percent (5%) of the equity in such publicly traded corporation, such investment company's or lending institution's:

(1) Full name;

(2) Business address;

(3) Business telephone number;

(4) Percentage of equity held.

(d) If the applicant business concern is a publicly traded corporation, a listing of all individuals or business concerns holding more than five percent (5%) or individuals related within the third degree holding a cumulative of five percent (5%) or more of the debt liability in the applicant business concern shall be provided with such listing to include the following information for such persons or business concerns:

(1) Full name;

(2) Business address;

(3) Federal employer identification number, if applicable;

(4) Amount of debt liability held in U.S. Dollars; and

(5) Percentage of the total debt liability held.

For the purposes of Rule 7.5(D)(2)(d), persons and business concerns holding debt liability in the applicant business concern and disclosed pursuant to Rule 7.5(D)(2)(d) are not subject to further disclosure requirements and shall not be considered a "disclosed business concern" unless expressly requested by the permit board.

E. Disclosed Business Concern Information.

(1) Officers, Directors, and Partners. For each officer, director or partner of any business concern disclosed in the statement supplied pursuant to these Regulations (other than an investment company which is publicly traded or a chartered lending institution), such person's:

(a) Full name;

(b) Business address;

(c) Date of birth;

(d) Social security number;

(e) Business telephone number;

(f) Position, i.e., officer, director, partner, key employee as defined in Rule 7.3(P) of these Regulations.

(g) Employer's name, company name or business name.

(2) Equity and Debt Liability Holders.

(a) Disclosed Business Concern that is not a Publicly Traded Corporation.

(1) If the business concern applicant is not a publicly traded corporation, for each person other than a business concern holding equity in the disclosed business concern, such person's:

(i) Full name;

(ii) Business address;

(iii) Date of birth;

(iv) Social security number;

(v) Business telephone number;

(vi) Percentage of equity held.

(2) If the disclosed business concern is not a publicly traded corporation, for each business concern (other than an investment company which is publicly traded or a chartered lending institution) which is an equity holder of the disclosed business concern, such business concern's:

(i) Full name;

(ii) Business address;

(iii) Date of establishment;

(iv) Federal employer identification number;

(e) Business telephone number;

(v) Percentage of equity held.

(3) If the disclosed business concern is not a publicly traded corporation, for each investment company which is publicly traded or chartered lending institution holding equity in such disclosed business concern, such investment company's or lending institution's:

(i) Full name;

(ii) Business address;

(iii) Business telephone number;

(iv) Percentage of equity held.

(4) If the disclosed business concern is not a publicly traded corporation, a listing of all persons or business concerns holding debt liability in such disclosed business concern shall be provided with such listing to include the

following information for such persons or business concerns:

(i) Full name;

(ii) Business address;

(iii) Federal employer identification number, if applicable;

(iv) Amount of debt liability held in U.S. Dollars; and

(v) Percentage of the total debt liability held.

For the purposes of Rule 7.5(E)(2)(a)(4), persons and business concerns holding debt liability in disclosed business concerns and disclosed pursuant to Section Rule 7.5(E)(2)(a)(4) are not subject to further disclosure requirements and shall not be considered a "disclosed business concern" unless expressly requested by the Permit Board.

(b) Publicly Traded Corporation Disclosed Business Concern.

(1) If the disclosed business concern is a publicly traded corporation, for individuals related within the third degree holding a cumulative of five percent (5%) and for any other person (other than a business concern) holding more than five percent (5%) of the equity in such publicly traded corporation, such person's:

(i) Full name;

(ii) Business address;

(iii) Date of birth;

(iv) Social Security number;

(v) Business telephone number;

(vi) Percentage of equity held.

(2) If the disclosed business concern is a publicly traded corporation, for each business concern (other than an investment company which is publicly traded or a chartered lending institution holding equity in a business concern disclosed in applicant's disclosure

statement) holding more than five percent (5%) of the equity in such publicly traded corporation, such business concern's:

(i) Full name;

(ii) Business address;

(iii) Date of establishment;

(iv) Federal employer identification number;

(v) Business telephone number;

(vi) Percentage of equity held.

(3) If the disclosed business concern is a publicly traded corporation, for each investment company which is publicly traded or chartered lending institution holding more than five percent (5%) of the equity in such publicly traded corporation, such investment company's or lending institution's:

(i) Full name;

(ii) Business address;

(iii) Business telephone number;

(iv) Percentage of equity held.

(4) If the disclosed business concern is a publicly traded corporation, a listing of all individuals and business concerns holding more than five percent (5%) or individuals related within the third degree holding a cumulative of five percent (5%) or more of the debt liability in the disclosed business concern shall be provided with such listing to include the following information for such persons or business concerns:

(i) Full name;

(ii) Business address;

(iii) Federal employer identification number, if applicable;

(iv) Amount of debt liability held in U.S. Dollars; and

(v) Percentage of the total debt liability held.

For the purposes of Rule 7.5(E)(2)(b)(4), persons and business concerns holding debt liability in disclosed business concerns and disclosed pursuant to Rule 7.5(E)(2)(b)(4) are not subject to further disclosure requirements and shall not be considered a "disclosed business concern" unless expressly requested by the permit board.

(F) Applicant's Interest in Waste Business Concerns. For each business concern that collects, transports, treats, processes, stores or disposes of nonhazardous solid waste or hazardous waste in which the applicant holds an equity interest of five percent (5%) or more, such business concern's:

(1) Full name;

(2) Business address;

(3) Date of establishment;

(4) Federal employer identification number;

(5) Business telephone number.

(G) Applicant's Business Experience and Credentials.

(1) If the applicant is a person other than a business concern, a description of the business experience and credentials of the applicant, including any past or present permits or licenses, possessed by the applicant, for the treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste.

(2) If the applicant is a business concern, a description of the business experience and credentials of the applicant's key employee(s), officers, directors and/or partners, including any past or present permits or licenses, possessed by such persons for the treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste.

(H) History of Related Business Concerns.

(1) If the applicant is seeking a permit to operate and/or construct a commercial nonhazardous solid waste management facility and either the applicant or a parent business concern has engaged in the commercial treating, processing, storage or disposal of nonhazardous solid waste in Mississippi for fewer than five (5) years preceding the filing of its application or if the applicant is seeking a permit to operate and/or construct a commercial hazardous waste management facility and either the applicant or a parent business concern has engaged in the

commercial treating, processing, storage or disposal of hazardous waste in Mississippi for fewer than five (5) years preceding the filing of its application, the following information about each sister business concern of applicant that has engaged in the commercial treating, processing, storage or disposal of nonhazardous solid waste or hazardous waste within such five-year period:

(a) Full name;

(b) Business address;

(c) Date of establishment;

(d) Federal employer identification number;

(e) Business telephone number.

(2) If neither the applicant nor its parent business concern(s) nor any sister business concern of the applicant has engaged in the commercial treating, processing, storage or disposal of nonhazardous solid waste or hazardous waste within the five-year period preceding the filing of its application, provide the following information about any sister business concerns that, within the five-year period preceding the filing of applicant's application, have been the subjects of any enforcement actions:

(a) Full name;

(b) Business address;

(c) Date of establishment;

(d) Federal employer identification number;

(e) Business telephone number;

(f) Listing and explanation of each such enforcement action [include the name and address of the regulatory agency involved].

(I) Environmental History. Any person required to be disclosed in the disclosure statement, except a person required to be disclosed pursuant to Rule 7.5(h)(2) of these Regulations, shall provide a listing and explanation of any:

(1) notices of violation;

(2) prosecutions;

(3) administrative orders (whether by consent or otherwise);

(4) license or permit revocations or suspensions; and,

(5) enforcement actions by any state or federal authority within the five-year period immediately preceding the filing of the application, which are pending or have concluded in a finding of violation or entry of a consent agreement regarding any allegation of the civil or criminal violation of any law, regulation or requirement related to the treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste [include the name and address of the regulatory agency involved].

(J) Felony Information. For each person required to be disclosed in the disclosure statement, an itemized list of any and all final convictions of and pleas of guilty or nolo contendere to any crime punishable as a felony in any jurisdiction within the five-year period immediately preceding the filing of the application [include the name of the jurisdiction in which the conviction(s) and/or plea(s) occurred].

(K) Nonhazardous Solid Waste or Hazardous Waste Agency Information.

(1) A listing of each agency outside of Mississippi that has or has had regulatory responsibility over the applicant regarding the applicant's treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste within the five-year period immediately preceding the filing of the application.

(2) A listing of each agency outside of Mississippi that has or has had regulatory responsibility over a parent, subsidiary or sister business concern of applicant regarding such parent, subsidiary or sister business concern's treatment, processing, storage or disposal of nonhazardous solid waste or hazardous waste within the five-year period immediately preceding the filing of the application. This disclosure need be made concerning sister business concerns only if such sister business concern is required to be disclosed under Rule 7.5(h), supra.

(L) Other Related Information. Applicant shall provide any other information the Mississippi Environmental Quality Permit Board may require prior to making its decision concerning the issuance, reissuance or transfer of a permit.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.6 Execution of Disclosure Statements.

A. Disclosure statements shall be signed and sworn to or affirmed by the applicant, as follows:

(1) If the applicant is a corporation, by at least one of the following: its president, its chairman of the board, any other chief executive officer thereof, its secretary, its treasurer or other officer or employee of the corporation authorized by the applicant to execute the disclosure statement on behalf of the corporation. The Department or the Permit Board may require an applicant to present proof of such person's authority to execute the disclosure statement on behalf of the corporation.

(2) If the applicant is a partnership [except a limited partnership], by at least one of its partners who has authority to execute the disclosure statement on behalf of the partnership.

(3) If the applicant is a limited partnership, by at least one of its general partners who has authority to execute the disclosure statement on behalf of the limited partnership.

(4) If the applicant is any other business concern, by its chief executive officer, its secretary or its treasurer.

(5) If the applicant is an individual, by the individual himself or herself.

B. All signatures on original disclosure statements shall be dated and signed in ink and sworn before a notary public or other lawful officer authorized to administer oaths. Signatures on copies may be photocopied, typed, stamped or printed. The name and address of the signatory shall be typed, stamped or printed beneath each signature.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.7 Changes in Circumstances Relevant to Disclosure Statement. If, while applicant is awaiting action upon a permit application [within the scope of these Regulations] by the Permit Board, a change in circumstances renders any information provided in a disclosure statement incorrect, misleading or otherwise inaccurate, applicant shall advise the Department within thirty (30) days and supplement the disclosure statement accordingly within sixty (60) days of any such change in circumstances. Failure to do so may be considered by the Permit Board to be a misrepresentation or concealment of such change in circumstances.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.8 Method of Reporting Changes in Circumstances. Changes in circumstances shall be reported on amendment forms provided by the Department. The amendment form(s) shall be

signed and sworn to or affirmed by the same person(s) and in the same manner as authorized by Rule 7.6 above for the disclosure statement.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.9 Department May Require the Filing of a New Disclosure Statement. Where multiple changes in circumstances are to be reported, the Department, in its discretion, may require the filing of a new disclosure statement.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.10 Staff May Call on Other State Agencies in Reviewing Disclosure Statements. The staff is authorized to call on criminal investigatory and prosecutorial authorities and other agencies of the state to assist in the review and investigation of disclosure statements and applicants.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.11 Annual Update of Disclosure Statement. Following issuance, reissuance or transfer of a permit within the scope of these Regulations, the person to whom the permit was issued shall file an updated disclosure statement annually on the anniversary of the permit issuance date as stated on the permit. If there has been no such changes since the most recent disclosure statement filing or updating, the filing of an additional disclosure statement will not be required if said person, no later than the anniversary of the permit issuance date, indicates by means of a letter to the Head of the Office of Pollution Control that no such changes have occurred.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.12 Failure to Annually Update Disclosure Statement. Failure of a holder of a permit within the scope of these Regulations to annually update the disclosure statement originally filed with the issuance, reissuance or transfer of such permit shall be grounds for revocation of the permit by the Permit Board.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.13 Disclosure Statements to be Public Records. Disclosure statements and the information contained therein, except in so far as such may be accorded confidentiality pursuant to Mississippi Code Annotated section 17-17-27(6) (Supp. 1993) or pursuant to other laws of the state of Mississippi, are public records within the meaning of Miss. Code Ann. Section 25-61-5 (Supp. 1993). Applicants shall comply with the requirements of said Section 17-17-27(6) to preserve confidentiality claims.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.14 Additional Information. The Permit Board, the Staff or both may require the applicant to submit additional information in the disclosure statement beyond what is specifically required by these Regulations. For purposes of these disclosure regulations, such additional information is limited to items which are specifically requested, and individuals as well as business concerns which are disclosed pursuant to this provision are not subject to any of the earlier disclosure provisions unless expressly indicated in the request by the Permit Board and/or the Staff. Therefore, a business concern revealed pursuant to this provision would not be a "disclosed business concern" as referred to earlier in these regulations.

S Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.15 Grounds for Refusal to Issue, Reissue or Transfer a Permit. The Permit Board may refuse to issue, reissue or transfer a permit if the Permit Board finds that the applicant or any person required to be listed in the disclosure statement:

A. has misrepresented or concealed any material fact in the disclosure statement;

B. has obtained a permit from the Permit Board by misrepresentation or concealment of a material fact;

C. has been convicted of a felony or pleaded guilty or nolo contendere to a felony involving any federal or state laws, including but not limited to environmental laws, within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit;

D. has habitually violated any provisions of federal or state environmental laws, rules or regulations related to the management of nonhazardous solid waste or hazardous waste within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit, or, if neither the applicant nor any person required to be listed in the disclosure statement has worked or done business in the nonhazardous solid waste or hazardous waste fields within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit, has habitually violated any other provisions of federal or state environmental law, rules or regulations within the same five year period;

E. has been adjudicated in contempt of an order of any court enforcing any state or federal environmental laws within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit;

F. has been convicted of or pleaded guilty or nolo contendere to bribery or attempting to bribe a public officer or employee of the federal government or of any state or local government in the United States in the public officer's or employee's official capacity

within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit; or

G. has been convicted of or pleaded guilty or nolo contendere to collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price within the five-year period immediately preceding the filing of the application for the issuance, reissuance or transfer of a permit.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.16 Consideration of Facts and Mitigating Circumstances. In determining whether to issue, reissue or transfer a permit for the treatment, processing, storage or disposal of nonhazardous solid waste at a commercial nonhazardous solid waste management facility or hazardous waste at a commercial hazardous waste management facility, the Permit Board shall consider the facts and any mitigating factors, including:

A. the relevance of the offense to the business for which a permit is sought or the nature and responsibilities of the position which a convicted individual would hold;

B. the nature and seriousness of the offense;

C. the circumstances under which the offense occurred;

D. the date of the offense; and

E. the ownership and management structure of the applicant at the time of the offense.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.17 Evidence of Rehabilitation. The Permit Board shall allow the applicant to submit evidence of rehabilitation and shall consider the applicant's efforts to prevent recurrence of the unlawful activity in its determination under Rule 7.15 of these Regulations.

A. Items to be considered by the Permit Board shall include:

(1) the applicant's record and history of implementing successful corrective actions undertaken to prevent or minimize the likelihood of recurrence of the offense;

(2) whether the offense was an isolated event or repeated incident (i.e., part of a pattern of activity);

(3) whether the applicant cooperated with governmental bodies during (3) investigations or voluntarily provided information regarding any offense under consideration;

(4) the number and types of permits held by applicant and the experience of applicant in conducting its business;

(5) implementation by the applicant of formal policies, training programs or management controls to substantially minimize or prevent the occurrence of future violations or unlawful activities;

(6) implementation by the applicant of an environmental compliance audit program to assess and monitor compliance with environmental laws, rules, regulations and permit conditions; and

(7) the applicant's discharge of individuals or severance of the interest of or affiliation with responsible parties who would otherwise cause the Permit Board to deny a permit.

B. If the Permit Board finds pursuant to this section that mitigating factors exist or that the applicant has demonstrated rehabilitation, the Permit Board may issue, reissue or transfer the permit for the treatment, processing, storage or disposal of nonhazardous solid waste at a commercial nonhazardous solid waste management facility or hazardous waste at a commercial hazardous waste management facility.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.18 Reconsideration of Permit Based on Change in Circumstances. If, following issuance, reissuance or transfer of a permit, a change in circumstances is reported by the permit holder, the Permit Board may reconsider such action after notice to the applicant and the opportunity for a hearing in accordance with Miss. Code Ann. section 49-17-29 (4) (Supp. 1993) and, if it deems appropriate, revoke or modify the permit.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.19 Regulations Severable. Each of these Regulations promulgated under the Act and each part or subpart of said Regulations are intended by the Commission to be severable such that should any Regulation or any part or subpart of any Regulation be held to be invalid by any court, such invalidity shall not affect the validity of the remaining parts and/or subparts of these Regulations.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.20 Administrative Appeals. Any applicant denied the issuance, reissuance or transfer of a permit because of information disclosed pursuant to these Regulations, or any other interested party aggrieved by actions of the Permit Board related thereto, may request a formal hearing

concerning such action before the Permit Board as provided in Miss. Code Ann. Section 49-17-29 (4) (Supp. 1993).

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.21 The Commission on Environmental Quality may waive the filing of disclosure information related to applicants for permits involving the storage, treatment, processing or disposal of nonhazardous solid waste only if the information regards the holder of less than five percent (5%) of the equity of the applicant or the holder of less than five percent (5%) of the equity in any business concern which holds equity in the applicant.

A. In order to apply for the waiver, the applicant shall file a sworn petition requesting such waiver and allege either:

   (1) that the information cannot be ascertained after reasonable and diligent search and inquiry, setting forth in the petition the facts and circumstances alleged to constitute the reasonable and diligent search and inquiry to obtain the information; or

   (2) that the information required is not relevant or material, setting forth in the petition the facts and circumstances in support of the irrelevancy or immateriality of the information.

B. The Commission may waive the filing of such information if the Commission finds and declares such information either:

   (1) to be unobtainable after reasonable and diligent search and inquiry; or

   (2) to be irrelevant or immaterial to the review of the application; and

   (3) unnecessary to the discharge of its responsibilities with regard to such permit as set forth by law.

C. Any applicant, other person or interested party, aggrieved by an Order of the Commission waiving the filing of such information may appeal the decision of the Commission in the manner provided in Miss. Code Ann. Section 49-17-41 (1972), as amended.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Rule 7.22 Effective Date. The original Regulations were adopted by the Mississippi Commission on Environmental Quality on October 24, 1991. Notwithstanding anything to the contrary, the initial amendments to the original Regulations included herein were adopted on December 17,

1992, and became effective on January 18, 1993. The amendments included herein were adopted on July 28, 1994, and shall become effective on August 30, 1994.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-501, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq. and 49-17-1, et seq.*

Part 4, Chapter 8: Mississippi Commission on Environmental Quality Regulations For The Certification Of Operators of Solid Waste Disposal Facilities

TABLE OF CONTENTS

Rule 8.1 General Information

Rule 8.2 Definitions

Rule 8.3 Certification Requirements

Rule 8.4 Renewal of Certificates

Rule 8.5 Revocation or Suspension of Certificates

Rule 8.6 Reciprocity

Rule 8.7 Enforcement and Appeals

Rule 8.1 General Information.

A. These regulations are promulgated under the authority provided by the Miss. Code Ann. Section 21-27-207.

B. The Miss. Code Ann. Section 21-27-211 and the Mississippi Nonhazardous Solid Waste Management Regulations require that all commercial solid waste landfills and class I rubbish sites must employ a certified operator. Any person designated by the landfill or class I rubbish site owner as the person having direct supervision over and personal responsibility for the daily operation of the landfill or rubbish site must apply for and obtain operator certification under the conditions contained in these regulations.

C. Certificates shall be valid for three (3) years, unless revoked or invalidated by the Commission for just cause.

Source: Miss. Code Ann. *§§ 17-17-1, et seq. 17-17-201, et seq., 21-27-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., and 49-17-1, et seq.*

Rule 8.2 Definitions. The definitions provided in this section are for the purposes of these regulations. All other relevant terms for which no definition is provided in these regulations shall be used as defined by the Mississippi Nonhazardous Solid Waste Management Regulations.

A. "Certificate" means the written certification of competency issued by the Commission stating that the operator of a landfill or class I rubbish site has met the requirements for the specified operator classification.

B. "Commercial Class I rubbish site" means a permitted rubbish site, which accepts for disposal Class I rubbish, as defined by the Commission, for compensation or from more than one (1) generator.

C. "Commercial nonhazardous solid waste management facility" means any facility engaged in the storage, treatment, processing or disposal of nonhazardous solid waste for compensation or which accepts nonhazardous solid waste from more than (1) generator not owned by the facility owner.

D. "Commission" means the Mississippi Commission on Environmental Quality.

E. "Department" means the Mississippi Department of Environmental Quality.

F. "Experience" means direct observation of and/or participation in the operation and maintenance of a commercial nonhazardous solid waste management facility or other relevant work activities as determined by the Department.

G. "Operator" means the person who directly supervises and is personally responsible for the daily operation and maintenance of a commercial nonhazardous solid waste management facility.

H. "Rubbish" means nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, and plastics, yard trimmings, leaves and similar material. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like material which will not burn at ordinary incinerator temperatures (not less than 1600 degrees F.)

I. "Rubbish site" means, for the purposes of these regulations, a commercial class I rubbish site.

Source: Miss. Code Ann. *§§ 17-17-1, et seq. 17-17-201, et seq., 21-27-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., and 49-17-1, et seq.*

Rule 8.3 Certification Requirements.

A. Qualifications for Commercial Solid Waste Landfill Operator Certification

(1) An applicant may receive a certificate of competency as a Commercial Landfill Operator from the Commission if the applicant is a graduate of an accredited high school or an equivalent (GED) program, has at least five (5) years of experience in landfill operation, and has passed a Commission approved written examination pursuant to paragraph E.1 of this rule. An applicant may receive credit from the Department for experience and education as follows:

(a) An applicant seeking commercial landfill operator certification under paragraph A.1 of Rule 8.3 who has completed additional years of education beyond a high school diploma or GED may receive partial credit for deficiencies in their experience, not to exceed three (3) years per degree completed. Such education should be in the field of engineering or engineering technology, biology, chemistry, geology, physics or other natural sciences. Other degrees may be considered based upon the curriculum's applicability to landfill operations as determined by the Department.

(b) An applicant seeking commercial landfill operator certification under paragraph A.1 of Rule 8.3 that has obtained comparable work experience in areas that are not directly related to landfill operations, may request that the Department review and consider such work experience to account for up to three (3) years of credit for required work experience. Comparable work experience could include work in other areas of solid waste management, work with other types of pollution control technology, work with equipment commonly used in landfill operations, or other similar work activities. The relevance of such experience as well as the amount of credit the applicant may receive shall be determined by the Department on a case by case basis, based upon the comparability to skills used in landfill operations.

(c) In no case, shall the applicant be considered for certification with less than one year of direct experience in landfill operations.

(2) An applicant that is seeking certification to operate a commercial non-municipal solid waste landfill may request that the Department allow the applicant to seek certification under Rule 8.3(B)(1)(a) of these regulations where the affected landfill operations are more comparable to a rubbish site.

B. Qualifications for Commercial Class I Rubbish Site Operator Certification

(1) An applicant may receive a certificate of competency as a Class I Rubbish Site Operator from the Commission if:

(a) the applicant is a graduate of an accredited high school or has obtained an equivalent (GED), has at least one (1) year of experience in the operation of a rubbish site or other comparable disposal site, and has

passed a Commission approved written examination pursuant to paragraph E.1 of Rule 8.3.

(b) the applicant currently holds a valid certificate of competency as a Commercial Solid Waste Landfill Operator and has passed the Rubbish Site Operator Examination pursuant to paragraph E.1 of this rule.

(c) the applicant is the operator of an existing class I rubbish site in Mississippi open and receiving waste on June 30, 2005. Such certification shall be valid only until June 30, 2006 and only for operating the facility at which he/she was employed on June 30, 2005, and shall not be renewable.

(d) the applicant is the operator of a new commercial class I rubbish site expected to open in Mississippi prior to the Commission's initial examination date, provided that the person has graduated from an accredited high school or equivalent (GED)program, and has at least one (1) year of experience operating a rubbish site. Such certification shall only be valid until June 30, 2006 and shall not be renewable.

(2) An applicant may receive credit for the experience and educational requirements of paragraph B.1.(a) as follows:

(a) An applicant seeking class I rubbish site operator certification under paragraph B.1 of this rule who has completed additional years of education beyond a high school diploma or GED may receive up to 6 months of credit for deficiencies in their work experience. The award of such credit will be based upon the applicability of the curriculum to solid waste disposal operations as determined by the Department.

(b) An applicant seeking class I rubbish site operator certification under paragraph B.1 of Rule 8.3 that has obtained comparable work experience in areas that are not directly related to rubbish site operations, may request that the Department review and consider such work experience to account for up to one (1) year of credit for required work experience. The relevance of such experience as well as the amount of credit the applicant may receive shall be determined by the Department on a case by case basis, based upon the comparability to skills used in rubbish site operations.

(3) Only one (1) operator per facility may be certified under paragraphs B(1)(c) or (d) of Rule 8.3.

C. Terms of Certification. A certificate of competency issued by the Commission under these regulations shall be valid for three (3) years, unless otherwise revoked or invalidated for just cause.

D. Application for Certification

(1) An applicant seeking certification shall submit an application to the Department on a form provided by the Department for review and determination of eligibility.

(2) The Commission shall issue certificates of competency when the applicant meets the minimum qualifications and requirements of these regulations.

(3) The Commission may deny an application if the applicant has not complied with all the provisions of these regulations and with all other applicable Federal, State, and local statutes and regulations or has submitted inaccurate or false information in the application, or has submitted incomplete application forms after being notified in writing by the Department that the application is incomplete. The Commission shall make a determination regarding issuance or denial of the certificate based upon the information contained in the application, the applicant's actions during any prior term of certification, and any other pertinent information that is available to the Commission.

E. Examinations

(1) An applicant must pass a written examination developed, prepared, and given by the Commission, or developed, prepared, and given by another organization that is approved by the Commission.

(2) An applicant who fails to pass an examination may repeat the examination at the next regularly scheduled examination date.

(3) Examination papers will not be returned to the applicant.

(4) An applicant who fails to pass an examination given by the Commission may review his/her examination by submitting a written request to the Department within thirty (30) days following notification of the exam grade. An applicant who fails an exam administered by a Commission approved organization is subject to the guidelines of that organization.

Source: Miss. Code Ann. *§§ 17-17-1, et seq. 17-17-201, et seq., 21-27-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., and 49-17-1, et seq.*

Rule 8.4 Renewal of Certificates.

A. Eligibility for Renewal/Recertification

(1) A certificate of competency issued under Rules 8.3(A) and (B)(1)(a) and B. of these regulations may be renewed. Such renewal may be made without examination, provided that a renewal application is submitted prior to the

expiration of the existing certificate. The renewal application must be accompanied by proof of completion of the continuing education requirements described in Rules 8.3(B) of these regulations.

(2) Certified operators who submit renewal applications more than sixty (60) days after the expiration of their certificate will be required to pass the written examination as described in Rule 8.3(E) of these regulations in order to be eligible for re-certification.

B. Continuing Education Requirements

(1) In order for a certificate of competency to be renewed under Rule 8.4 of these regulations, commercial solid waste landfill operators must earn at least forty-eight (48) hours of continuing education during the period in which the current certificate is valid. Those operators who have been certified for at least three (3) consecutive terms (or nine (9) years) must earn at least thirty (30) hours of continuing education during the period in which the current certificate is valid.

(2) In order for a certificate of competency to be renewed under Rule 8.4 of these regulations, commercial class I rubbish site operators must earn at least twenty-four (24) hours of continuing education during the period in which the current certificate is valid. Those operators who have been certified for at least three (3) consecutive terms (or nine (9) years) must earn at least sixteen (16) hours of continuous education during the period in which the current certificate is valid.

(3) Class I Rubbish Site Operators certified under Rule 8.3(B)(1)(b) of these regulations must earn at least eight (8) hours of continuing education specific to rubbish site operations during the period in which his or her certification is valid.

(4) Continuing Education requirements may be satisfied by attending Department-sponsored training sessions, Solid Waste Association of North America (SWANA)-sponsored technical programs, or by obtaining comparable training approved by the Department. Continuing education credit will generally be given as follows:

(a) one (1) hour of Department-sponsored training shall be equivalent to one (1) hour of continuing education, not to exceed ten (10) hours per day.

(b) one (1) hour of a related SWANA-sponsored technical program shall be equivalent to one (1) hour of continuing education not to exceed ten (10) hours per day.

(c) attending one (1) week long related SWANA-sponsored course, or other course(s) determined by the Department to be equivalent in scope and duration, shall be equivalent to forty (40) hours of continuing education.

(d) special schools, experience, training, correspondence courses, etc., may be approved at the discretion of the Department.

(5) The Department reserves the right to reduce the number of hours of continuing education units granted or determine how much credit will be given for courses where the content, or portions of, is determined to be unrelated to landfill or rubbish site operations. The Department will review the course content to determine how much, if any, credit will be given to the operator for attendance.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 21-27-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., and 49-17-1, et seq.*

Rule 8.5 Revocation or Suspension of Certificates

A. The Commission may revoke or suspend the certificate of an operator, following a hearing before the Commission, when it is found that the operator:

(1) has practiced fraud or deception,

(2) fails to use reasonable care, judgment, and/or apply knowledge in the performance of duties,

(3) is incompetent or unable to properly perform duties,

(4) knowingly submits false or inaccurate information for issuance or renewal of a certificate under these regulations,

(5) willfully fails to comply with the conditions of the certificate issued by the Department, or

(6) violates any provision of any applicable state or federal law, regulation, or permit condition.

B. In the event the Commission suspends the certificate of an operator, the Commission may as a part of the suspension, require the operator to comply with all applicable laws and regulations, to obtain additional continuing education and/or to complete other actions as required by the Commission. Failure to comply with the terms of the suspension may result in revocation of the operator's certificate.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 21-27-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., and 49-17-1, et seq.*

Rule 8.6 Reciprocity.

A. Certificates of competency may be issued, without examination, to an operator who holds a current, valid certificate from another state or a private company that has entered into a reciprocity agreement with the Commission.

B. Reciprocity agreements may be established if the Commission determines that the certification and training program of another state or a private company meets or exceeds that of the Commission's.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 21-27-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., and 49-17-1, et seq.*

Rule 8.7 Enforcement And Appeals. Enforcement and appeals shall be in accordance with the Sections 21-27-201 through 21-27-221 of the Mississippi Code Annotated.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 21-27-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., and 49-17-1, et seq.*

Part 4, Chapter 9: Mississippi Commission on Environmental Quality Regulations For The Beneficial Use of Nonhazardous Solid Waste

TABLE OF CONTENTS

Rule 9.1 General Information

Rule 9.2 Procedures for Beneficial Use Determinations

Rule 9.3 Beneficial Use Categories

Rule 9.4 Reporting Requirements

Appendix I

Appendix II

Rule 9.1 General Information.

A. Purpose, Scope and Applicability

(1) As per Rule 1.1(B)(5) of the Mississippi Nonhazardous Solid Waste Management Regulations, the Mississippi Department of Environmental Quality may make determinations that allow for the beneficial use of eligible nonhazardous solid wastes in the state.

(2) These regulations shall apply to any person, organization, industry, business, agency, or institution that intends to obtain, distribute and/or use an eligible solid waste or by-product for the purposes of beneficial use in a manner for which the material was not specifically manufactured.

B. Exclusions

(1) These regulations do not apply to the recovery of common residential or commercial recyclable materials such as steel, aluminum, plastic, glass, paper, cardboard, wood or other materials that are post-consumer materials or pre-consumer off-specification materials where such materials are processed and/or managed as recyclable commodities.

(2) These regulations do not apply to compost materials developed in compliance with Rule 1.9 of the Mississippi Nonhazardous Waste Management Regulations.

(3) These regulations do not apply to uses of solid wastes in beneficial fill activities as described in Rule 1.1(B)(6) of the Mississippi Nonhazardous Waste Management Regulations.

(4) Hazardous wastes are excluded from consideration for beneficial use under these regulations as defined by the Mississippi Hazardous Waste Management Regulations and Subtitle C of the Federal Resource Conservation and Recovery Act. Furthermore, solid wastes or by-products proposed for beneficial use must be nonhazardous in the post-manufactured or generated state without first modifying or treating the by-product to render it nonhazardous.

C. Definitions. The definitions provided herein are for the purposes of these requirements. All other relevant words for which no definition is provided by these requirements are used as defined by the Mississippi Nonhazardous Solid Waste Management Regulations.

(1) "Application" means a written request to the Department for consideration of a by-product for a Beneficial Use Determination, submitted on forms provided by the Department with appropriate supporting documentation.

(2) "Beneficial Use" means the legitimate use of a solid waste in the manufacture of a product or as a product, for construction, soil amendment or other purposes, where the solid waste replaces a natural or other resource material by its utilization.

(3) “Beneficial Use Determination” means a written determination issued by the Mississippi Department of Environmental Quality to an applicant after review and approval of an application, to allow the legitimate beneficial use of a solid waste or by-product as a product.

(4) “By-Product” means a solid waste material that is generated as a result of the manufacture of a primary product that, barring any form of alternate or beneficial use of that material, would otherwise be discarded at a landfill or other solid waste disposal facility.

(5) “Department” means the Mississippi Department of Environmental Quality.

(6) “Distributor or Supplier” means the person, organization or business engaged in the provision of a by-product to an end user.

(7) “End user” means the person, organization or business that will utilize a by-product in a manner consistent with these regulations and with the conditions of a Beneficial Use Determination issued under these regulations.

(8) “Generator” means the person, organization, business, industry, agency or institution whose daily activities or business results in the production of a by-product.

(9) “Putrescible Waste” means solid wastes, which are capable of being decomposed by micro-organisms with sufficient rapidity to cause nuisances from odors or gases.

(10) "Solid waste" means any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(11) “Standing Use Determination” means a Beneficial Use Determination approved by the Department for a specific by-product/use combination or for a category of by-product/use combinations that are contained or conducted in such a manner that does not offer potential for adverse environmental or public health impacts. Uses with standing determinations do not require a use specific application nor review and approval by the Department under these regulations.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., 49-17-1, et seq. and 49-31-1, et seq.*

Rule 9.2 Procedures for Beneficial Use Determinations.

A. Eligibility Requirements

(1) Solid wastes or by-products may be eligible for consideration for a Beneficial Use Determination from the Department where such materials meet the following requirements:

(a) The material, proposed for beneficial use, must be a "by-product" as defined in Rule 9.1(C) of these regulations.

(b) The solid waste or by-product proposed for beneficial use must be adequately characterized to confirm that the proposed use is adequately protective of the environment and human health and that the by-product possesses physical and/or chemical properties which make the material suitable for the intended use.

(c) The solid waste or by-product, proposed for beneficial use, must not be a putrescible waste as defined in Rule 9.1(C) or have other similar characteristics for potential nuisance.

(2) The proposed beneficial use must conform to the following use specific standards to be eligible for consideration for a Beneficial Use Determination from the Department.

(a) Unless otherwise approved by the Department, a proposed beneficial use must employ a by-product in such manner that the by-product serves as a suitable replacement for a raw material or other feedstock and, through its use, provides a benefit comparable to the material it is proposed to replace.

(b) The beneficial use must not solely serve the purpose of discarding or disposing of the material, as determined by the Department.

(c) A proposed beneficial use of a by-product must have a demonstrated use and/or market. For unproven uses, a demonstration project or effort may be considered and approved by the Department to verify the legitimacy of the intended beneficial use. Applications that propose speculative accumulation of a by-product for unproven uses or for uses with no currently available market or end use shall not be approved by the Department.

B. Application Procedures

(1) An application for a Beneficial Use Determination must be submitted to the Department for review and consideration, on forms provided by the Department,

prior to implementation of the intended use for any intended beneficial use of an eligible by-product, except for Category I determined uses described in Rule 9.3(A) of these Regulations.

(2) An application for a Beneficial Use Determination may be submitted to the Department by the generator, distributor or supplier, or end user of a by-product, as appropriate. Applications submitted by persons other than the generator must be accompanied by written consent for the proposed use from the generator or other owner of the material.

(3) Upon the review and conclusion that an application is consistent with these regulations, the Department shall issue a Beneficial Use Determination to the applicant. At such time, one or more of the following conditions shall apply:

(a) By-products approved for beneficial use shall be considered a solid waste and subject to the transportation and storage conditions of Rule 1.5 of the Mississippi Nonhazardous Solid Waste Management Regulations until the moment that the by-product is utilized and/or packaged for use as stipulated in the Beneficial Use Determination.

(b) Upon utilization of the material, a by-product for which a Beneficial Use Determination has been issued shall no longer be subject to the Mississippi Nonhazardous Solid Waste Management Regulations, provided the by-product is utilized in a manner consistent with the terms and conditions of the Beneficial Use Determination.

(c) The placement, dumping or other use of a by-product in a manner inconsistent with the Beneficial Use Determination may be considered as unauthorized dumping under the Mississippi Solid Waste Law and the responsible party may be subject to enforcement actions by the Department.

(d) Beneficial Use Determinations issued by the Department are only valid for uses conducted within the state of Mississippi.

(e) The issuance of a Beneficial Use Determination does not exempt the generator, supplier, end user and/or the registrant from compliance with applicable water quality and air quality regulations when managing or beneficially using a by-product under these regulations.

(f) Should the beneficial use of a by-product result in conditions that create environmental or public health problems, the generator, distributor or supplier, or end user of the material may share responsibility for needed corrective actions.

(4) For applications that are found to be inconsistent with these regulations by the Department, the following conditions shall apply:

(a) The Department shall notify the applicant in writing of the denial; and

(b) By-products for which a Beneficial Use Determination is denied by the Department are considered solid wastes and shall remain subject to the Mississippi Nonhazardous Solid Waste Management Regulations.

(5) A Beneficial Use Determination issued by the Department should not be considered to be an endorsement of the approved use or an endorsement of that by-product and should not be construed as such. Nor should such a determination be considered protection from liability and responsibility created under other applicable laws and regulations. The Department reserves the authority to modify, terminate or rescind any Beneficial Use Determination authorized under these regulations for just cause.

(6) Applicants may appeal the denial or the conditions of a Beneficial Use Determination to the Mississippi Commission on Environmental Quality within thirty (30) days of notification of the action. Such appeal shall be made in a manner consistent with Section 49-17-29 (4.b) of the Mississippi Code, Annotated.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., 49-17-1, et seq. and 49-31-1, et seq.*

Rule 9.3 Beneficial Use Categories.

A. Category I uses are uses that have a Standing Use Determination that has been approved by the Department. Category I uses must fulfill the following conditions:

(1) Category I uses must be consistent with one of the following Standing Use Determinations approved by the Department:

(a) Uses of uncontaminated and untreated wood, wood chips, bark, or sawdust where such materials are used as mulch, landscaping, animal bedding, wood fuel production, bulking agents or additives at a permitted composting facility, or other directly comparable uses.

(b) Rubbish that is legitimately used, reused, recycled or reclaimed, except for rubbish wastes which is composted or which, due to its chemical or physical constituency, would result in an endangerment to the

environment or the public health, safety, or welfare.

(c) Uses consistent with and approved under the conditions of the Mississippi Waste Tire Management Regulations as they pertain to the beneficial use of waste tires or waste tire derived materials;

(d) Contained uses in a regulated environmental system that the Department regulates through an existing permit, order, or regulation. Such uses may include stabilization or solidification of a solid waste for ultimate disposal in a municipal solid waste landfill, alternate cover uses in a municipal solid waste landfill or other type disposal facility, construction uses within a lined landfill cell and other similar uses as determined by the Department;

(e) Uses in which a by-product is utilized as a contained and/or encapsulated additive in the manufacture of a product; or

(f) Other uses which have been sufficiently demonstrated by the owner, distributor or supplier or user and subsequently approved by the Department for a Standing Use Determination.

(2) The by-product must satisfy Rule 9.2(A) of these regulations regarding eligibility requirements.

(3) For Category I uses, the generator/distributor shall be exempt from the requirements of Rules 9.2(B) and 9.4 of these regulations.

B. Category II uses are uses in which the by-product is utilized in engineered construction or other civil engineering uses. Category II determined uses must fulfill the following conditions:

(1) The by-product must satisfy Rule 9.2(A) of these regulations regarding eligibility requirements.

(2) An applicant must comply with Rule 9.2(B) of these regulations for the Department's consideration of a proposed beneficial use.

(3) By-Product Characterization - A by-product must be adequately characterized to ensure that the use of the material does not cause environmental or public health problems. At a minimum, the characterization must include a demonstration of the following:

(a) The applicant must conduct an appropriate analysis of the by-product that identifies the primary chemical constituents and demonstrates the physical characteristics of the material and must submit that analytical data with the application for beneficial use.

(b) The by-product should not contain constituents that exceed the Beneficial Use Characteristic Standard of Table A in Appendix 1 for the following metals: Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver. Where a constituent(s) in the by-product exceeds a Table A standard, the constituent(s) should be analyzed by the Toxicity Characteristic Leaching Procedure (TCLP) to confirm that the material does not exceed the leachability standards of Table B in Appendix 1. The Department may consider the use of an alternate leaching test, upon the written request and demonstration by the applicant that the alternate test provides a comparable and appropriate analysis for the use proposed.

(c) The Department may establish additional constituent standards for a by-product or may require that the applicant conduct an appropriate risk assessment of the by-product, depending upon the process generating the by-product. In such cases, the additional constituents must be analyzed and reported to the Department.

(d) Where a by-product does not meet an established beneficial use standard as described in Rules 9.3(B)(3)(b) and (B)(3)(c), the applicant may propose an alternate demonstration to the Department of the suitability of the by-product, based on an appropriate contaminant risk assessment of the material.

(4) The registrant of the by-product must have the certification of a professional engineer licensed in the State of Mississippi that the by-product has physical or chemical properties suitable for the proposed construction or civil engineering use. Where ASTM standards or other recognized standards exist relating to the proposed use, the by-product must comply with those standards.

(5) Where appropriate, the Department may adopt written best management practices for more common construction or civil engineering uses of by-products in the state. Upon the development of such best management practices, the registrant must provide a written copy to the end user or users at the point of sale or distribution of the by-product.

C. Category III determined uses are uses in which the by-product is utilized as a soil amendment, soil amendment additive, or direct application to the land. Category III determined uses must fulfill the following conditions:

(1) The by-product must satisfy Rule 9.2(A) of these regulations regarding eligibility requirements.

(2) An applicant must comply with Rule 9.2(B) of these regulations for the Department's consideration of a proposed beneficial use.

(3) By-Product Characterization – A by-product must be adequately characterized to ensure that the proposed use of the material does not cause environmental or public health problems. At a minimum, the characterization must include a demonstration of the following:

(a) The applicant must conduct an appropriate analysis of the by-product that identifies the primary chemical constituents and demonstrates the physical characteristics of the material and must submit that analytical data with the application for beneficial use.

(b) The by-product should not contain constituents that exceed the Beneficial Use Characteristic Standard of Table A in Appendix 1 for the following metals: Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium and Silver. Where a constituent(s) in the by-product exceeds a Table A standard, the constituent(s) should be analyzed by the Toxicity Characteristic Leaching Procedure (TCLP) to confirm that the material does not exceed the leachability standards of Table B in Appendix 1. The Department may consider the use of an alternate leaching test, upon the written request and demonstration by the applicant that the alternate test provides a comparable and appropriate analysis for the use proposed.

(c) The pollutant concentrations of a by-product proposed for Category III determined uses should not exceed the secondary soil amendment constituent standards in Appendix 2.

(d) The Department may establish additional constituent standards for a by-product or may require that the applicant conduct an appropriate risk assessment of the by-product, depending upon the process generating the by-product. In such cases, the additional constituents must be analyzed and reported to the Department.

(e) Where a by-product does not meet an established beneficial use standard as described in Rules 9.3(C)(3)(b) and (c) , the applicant may propose an alternate demonstration to the Department of the suitability of the by-product, based on an appropriate contaminant risk assessment of the material.

(4) A supplier or distributor must advise end users of the by-product in writing of the acceptable agronomic rate of application and agronomic practices for use of the by-product. Where appropriate, the Department may adopt written best management practices for more common soil amendment uses of by-products in the state. Upon the development of such best management practices, the registrant must provide a written copy to the end user or users at the point of sale or distribution of the by-product.

(5) Prior to a Category III use of the by-product, the applicant must apply for and obtain proper certification from the Mississippi Department of Agriculture and Commerce (MDAC) for the use of the proposed material as a soil amendment, where applicable.

D. Category IV determined uses are all other miscellaneous uses that do not fall into one of the preceding categories. Such uses must fulfill the following conditions:

(1) The by-product must satisfy Rule 9.2(A) of these regulations regarding eligibility requirements.

(2) An applicant must comply with Rule 9.2(B) of these regulations for the Department's consideration of a proposed beneficial use.

(3) Based upon the conditions of the proposed use, the Department may require that the applicant comply with part or all of the conditions in Rules 9.3(B) or (C) of these regulations.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., 49-17-1, et seq. and 49-31-1, et seq.*

Rule 9.4 Reporting Requirements. Beneficial Use Determinations issued under Rules 9.3(B), (C) and (D) of these regulations are subject to annual reporting requirements, unless otherwise determined by the Department. Such reporting requirements are as follows:

A. The registrant to whom a beneficial use determination was issued shall be required to submit an annual report to the Department, unless otherwise stated. All annual reports shall be submitted to the Department no later than February 28 of each year, for activity conducted during the previous calendar year. At a minimum, the report must contain the following information:

(1) The approximate quantity of the by-product used and/or distributed for use during the previous calendar year for the approved use(s);

(2) An appropriate physical and chemical characterization of the approved by-product. If the process generating the by-product has not changed, a signed certification from the generator or other party approved by the Department stating that the physical and chemical characteristics of the by-product are consistent with the information submitted in the approved application may be submitted in lieu of additional testing;

(3) Any other information specified as a reporting condition of the Beneficial Use Determination; and

(4) Registrants that have been issued multiple Beneficial Use Determinations for a by-product may submit one composite report for the information described in Rule 9.4(A). The composite report must distinguish the information for each determined use.

B. In addition to the requirements of Rule 9.4(A), Registrants issued a Beneficial Use Determination under Rule 9.3(C) of these regulations shall also submit a copy of the original the renewed product certification, where applicable, from the Mississippi Department of Agriculture and Commerce (MDAC). The copy of the original or renewed product certification shall be submitted within 21 days of receipt of the certificate from the MDAC.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-201, et seq., 49-2-9(1)(b), 49-17-17(i), 49-2-1, et seq., 49-17-1, et seq. and 49-31-1, et seq.*

Beneficial Use Characteristic Standards

Appendix 1

Table A.

Total Metals Thresholds

Contaminant	Regulatory Level (mg/kg)
Arsenic	10.0
Barium	200.0
Cadmium	2.0
Chromium	10.0
Lead	10.0
Mercury	0.4
Selenium	2.0
Silver	10.0

Table B.

Leaching Procedure Thresholds

Contaminant	Regulatory Level (mg/L)
Arsenic	0.5
Barium	10.0
Cadmium	0.1
Chromium	0.5

Lead	0.5
Mercury	0.02
Selenium	0.1
Silver	0.5

Appendix 2

Secondary Soil Amendment Thresholds*

Pollutant	Pollutant Concentration (mg/kg)
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Molybdenum	18
Nickel	420
Selenium	36
Zinc	2800

* Table 3, 40 CFR Part 503.13

Part 4, Chapter 10: Mississippi Commission on Environmental Quality Recycling Cooperative Grant Regulations

TABLE OF CONTENTS

Rule 10.1 Eligibility and Allocation of Funds

Rule 10.2 Grant Application Content and Procedures

Rule 10.3 Disapproval of Grant Applications

Rule 10.4 Conditions of Grant Award

Appendix

Rule 10.1 Eligibility and Allocation of Funds.

A. In accordance with Mississippi Code Annotated Section 17-17-63, ten percent (10%) of the amount of funds available in the Mississippi Nonhazardous Corrective Action Trust Fund shall be set aside in the Recycling Cooperative Grant Fund on July 1 of each State Fiscal Year. The funds will be used by the Mississippi Commission on Environmental Quality (Commission) to provide grants to regional recycling cooperative organizations formed by counties, municipalities, regional solid waste management authorities, or other multi-county/city entities for the purpose of jointly participating in the collection, processing and marketing of recyclables. Such grants for purposes of these regulations shall be herein referred to as "recycling cooperative grants."

B. Any funds remaining in the Recycling Cooperative Grant Fund at the end of the State Fiscal Year that have not been awarded shall be deposited back into the Recycling Cooperative Grant Fund for award in the next fiscal year, unless the Recycling Cooperative Grant Fund has expired as described in Miss. Code Ann. Section 17-17-63.

C. Recycling cooperative grant awards shall only be made to cooperative organizations formed by local government entities to conduct recycling efforts in conjunction with achieving the state waste reduction goal of 25%. Recycling cooperative grants shall not be awarded for activities or appurtenances associated with the management of materials or wastes where that activity is not considered recycling as defined in Mississippi Code Annotated Section 49-31-9 (i).

D. No recycling cooperative grant shall be awarded for a program or activity that is inconsistent with the approved solid waste management plan of the local government jurisdiction(s).

E. Recycling cooperative grants may be used to defray the following recycling program costs:

(1) Designing and developing a local or regional community recycling system;

(2) Construction of structures or appurtenances associated with an approved local community recycling system;

(3) Transportation activities or equipment associated with the collection and/or transport of recyclable materials to processors or markets;

(4) Processing activities or equipment associated with an approved local community recycling system;

(5) Integral personnel costs for the implementation of a local community recycling system;

(6) Grant Administrative costs (not to exceed 3% of the total budget);

(7) Public information and outreach costs; and

(8) Other miscellaneous costs deemed integral and appropriate for the success of the recycling program as approved by the Mississippi Department of Environmental Quality (MDEQ).

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-1, et seq. 49-17-1, et seq. and 49-31-1, et seq.*

Rule 10.2 Application Content and Procedures. In order to receive consideration for a grant award from the Commission, recycling cooperative organizations or a lead local government of an organization or cooperative effort shall submit an application as per the following procedures:

A. MDEQ will provide notice annually of the availability of the recycling cooperative grants including the anticipated amount of funds available and a deadline by which grant proposals must be submitted. All applications received by the advertised deadline date will be evaluated for consistency with these regulations, subject to the availability of funds.

B. Grant applications shall be submitted on an application form provided by the MDEQ and shall include a detailed narrative description of the scope of work and a detailed itemized budget for the cooperative recycling project. The itemized budget shall indicate the overall total costs of conducting the project and the amount of grant funds proposed to be applied towards the total cost of the recycling system.

C. Grant applicants that propose to utilize contractual assistance in the design or construction of the recycling system or any unit or component of the system, shall

include the name, the contact information, and the primary person(s) of contact for the contractor selected by the applicant and the reasons for the selection of the contractor. If a contractor has not been selected at the time of filing the application, the applicant shall describe the process to be used to select the contractor.

D. Grant applications that propose construction of new facilities or structures shall provide documentation of completion of the intergovernmental review process as described in the Appendix to this rule. This documentation shall include copies of comments received during the intergovernmental review process. If the process is not complete at the time of filing the application, the applicant shall provide information on the status of the intergovernmental review process and shall describe the applicant's proposed actions to complete the review process.

E. Unless specifically approved by the Commission, an award to an applicant shall be limited to the total amount of available grant funds advertised by the MDEQ.

F. Applications shall be evaluated and ranked with preference for approval based on the following factors:

(1) The proposed recycling cooperative project will result in multiple new local recycling programs being created or in substantial enhancements to existing local recycling programs for the jurisdictional area of the applicant organization. (20 points).

(2) The level of need of the local recycling cooperative project is deemed to be greater than for other proposed projects. (20 points).

(3) The recycling cooperative project proposal has demonstrated that the proposed recycling programs will be self-sustainable and/or will offer a long term commitment of resources by the member local governments to the project. (20 points).

(4) The proposed recycling cooperative project will be supported or matched by additional funding of member governments of the cooperative organization or by other grant awards to the cooperative organization or to its member local governments. (15 points).

(5) The proposed recycling cooperative project will be supported or matched by the contribution of physical properties, structures or equipment from the cooperative organization or its member governments. (15 points).

(6) The applicant has not been previously funded under this grant category. (10 points).

When funds requested exceed funds available, the ranking factors above may be used to determine which projects are awarded grant funding. However, the Commission, in its

discretion, may also apportion available funding to applicants in a fair and equitable manner when the factors above do not yield clear award preferences.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-1, et seq. 49-17-1, et seq. and 49-31-1, et seq.*

Rule 10.3 Disapproval of Grant Applications.

A. The MDEQ may refuse to approve a grant application for any of the following reasons:

(1) The MDEQ determines that the recycling cooperative project is not consistent with these regulations or with State laws or regulations governing the establishment and management of recycling programs;

(2) The MDEQ determines that the applicant has failed to provide a complete grant application as per Section B of these regulations;

(3) The applicant is in violation of or delinquent on any condition of a previously awarded grant by the MDEQ or other state agency;

(4) The applicant has deliberately falsified information submitted as part of the grant application;

(5) The MDEQ determines that the applicant has proposed expenditures for grant project activities or components that are unnecessary or that exceed the usual and customary costs for such activities or components;

(6) There are insufficient grant funds in the Recycling Cooperative Grant Fund;

(7) The grant application is ranked lower by the MDEQ than other proposals based on the factors described in Rule 10.2(F); and

(8) Other appropriate factors as determined by the Commission on Environmental Quality.

B. Should the MDEQ refuse to approve a grant application, the applicant may request a hearing before the Commission in accordance with Mississippi Code Annotated Section 49-17-35.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-1, et seq. 49-17-1, et seq. and 49-31-1, et seq.*

Rule 10.4 Conditions of Grant Award.

A. The grantee shall comply with all applicable procurement and purchasing regulations established pursuant to state law.

B. Grant awards shall be limited to eligible program costs as described in Rule 10.1(E) above. No grant funds shall be utilized for costs not identified in the approved grant application, unless otherwise approved by the MDEQ.

C. The grant funds shall be distributed by reimbursement to the grantee for eligible program costs, upon provision of a complete request-for-payment form to MDEQ with the appropriate supporting documentation. If a grant award includes the contribution of matching funds to the program by the grantee, these grant funds should be expended proportionally to the expenditure of the matching funds provided by the grantee.

D. A summary report shall be prepared and submitted to the MDEQ with each reimbursement request, detailing how the costs were incurred in the project and a summary of the activity conducted during the payment period.

E. At the discretion of the Commission, monies which are unspent after the grant expiration date shall be forfeited back to the Recycling Cooperative Grant Fund, until such time that the Recycling Cooperative grants program has expired. Upon expiration of the Recycling Cooperative Grant Fund, any uncommitted, unspent monies will be forfeited back to the Nonhazardous Corrective Action Trust Fund.

F. The Commission may include program specific conditions, as part of the grant award, that are determined necessary to ensure that any other applicable provisions of state law and regulations are followed.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-1, et seq. 49-17-1, et seq. and 49-31-1, et seq.*

APPENDIX

Intergovernmental Review Process

1. If the applicant proposes new facilities for construction and/or use, the following agencies shall be consulted prior to the formal submittal of a grant application concerning the proposed site location and the existence of any known or possible archaeological/cultural sites, endangered wildlife, wetlands, shellfish/coastal program impacts:

    a) Mississippi Department of Archives & History (For archaeological/cultural review);
    b) Mississippi Natural Heritage Program (For endangered wildlife review);
    c) U.S. Army Corps of Engineers (For wetlands review);
    d) Mississippi Department of Marine Resources (For shellfish/coastal review - Jackson, Harrison, and Hancock County projects only).

e) Mississippi Department of Environmental Quality – Environmental Permits Division (For environmental permits review).

f) Other agencies deemed appropriate due to the nature of the project.

2. Where applicable, a written description of the project plan shall be submitted to the agencies listed in this section with a request for written comments and a determination on any required surveys, permits, or other actions.

3. Documentation of the applicant's request for comments and any comments received in response to such request shall be attached with the grant application, as required in Section B.4 of these regulations.

Source: Miss. Code Ann. *§§ 17-17-1, et seq., 17-17-63, 17-17-201, et seq., 49-2-1, et seq. 49-17-1, et seq. and 49-31-1, et seq.*