

PERMIT REQUIREMENTS FOR DEVELOPMENT OF ENERGY AND
OTHER SELECTED NATURAL RESOURCES FOR THE
STATE OF LOUISIANA

PREPARED FOR
OZARKS REGIONAL COMMISSION
AND THE
U.S. GEOLOGICAL SURVEY

BY RADIAN CORPORATION

This technical assistance study was accomplished by professional consultants under contract with the Ozarks Regional Commission. The statements, findings, conclusions, recommendations, and other data in this report are solely those of the contractor, and do not necessarily reflect the views of the Ozarks Regional Commission or the U.S. Geological Survey.

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SECTION I. INTRODUCTION

This handbook has been compiled to assist applicants in complying with Louisiana environmental and land use regulatory programs. The handbook presents the requirements for permitting industrial projects, particularly those activities associated with energy developments. Only state programs are described, although the relationship between state programs and parallel federal programs is addressed where appropriate. Also, only environmental protection regulatory programs are described in the handbook. Other programs, such as health and safety requirements, taxes, or zoning, which may affect a proposed activity were excluded.

The information presented is not intended to cover all aspects of the state regulatory process but is designed to provide basic procedural and information requirements and to identify programs and responsible authorities. Applicability of a program(s) to a particular activity will require confirmation by the appropriate agency(s). Also, because regulatory programs are frequently being revised, applicants should contact each agency for the latest compliance requirements.

The information presented in this handbook was obtained through review of state laws and regulations and personal interviews with agency officials. The information is divided into the following sections:

- State Environmental Policy and Administrative Procedures
- Resource Extraction
- Land Use Regulation
- Environmental Quality Management
- Social/Ecological Preservation
- Local Regulatory Policy

SECTION II. STATE ENVIRONMENTAL POLICY AND ADMINISTRATIVE PROCEDURES

CHAPTER I. STATE CLEARINGHOUSE OR ONE-STOP PERMIT AGENCY

The Office of Environmental Affairs (OEA) within the Department of Natural Resources closely resembles the concept of a state clearinghouse or one-stop permit agency. The OEA has permitting jurisdiction in the areas of air quality, water pollution control, solid waste management, nuclear energy and radiation, and hazardous wastes. The OEA also serves as a clearinghouse for all environmental impact statements that are reviewed by Louisiana state agencies in accordance with the National Environmental Policy Act, PL 91-190.

Also having permitting responsibilities within the Department of Natural Resources are the Office of Conservation and the Division of State Lands. The Office of Conservation regulates and permits energy resource exploration and extraction, while coastal zone activities are regulated and permitted by the Division of State Lands.

CHAPTER 2. STATE ENVIRONMENTAL POLICY AND ADMINISTRATIVE STATUTES

The Louisiana Environmental Affairs Act (Act 449 of 1979, L.R.S. 30:1051 et seq.) is the legislation that most closely resembles a state equivalent of the National Environmental Policy Act (NEPA). Sections 1052 and 1053 declare the policy and purposes of Act 449, as quoted below:

§1052. Findings and declarations of policy

A. The legislature finds and declares that:

- (1) The maintenance of a healthful and safe environment for the people of Louisiana is a matter of critical state concern.
- (2) It is necessary and desirable for the protection of the public welfare and property of the people of Louisiana that there be maintained at all times, both now and in the future, clean air and water resources, a program for the safe and sanitary disposal of solid waste, a program for the management of hazardous waste, a program for the control of hazards due to natural and man-made radiation, considering sound policies regarding employment and industrial development in Louisiana.

§1053. Purposes

- A. The maintenance of a healthful and safe environment in Louisiana requires regulation and control over the areas of water quality, air quality, solid and hazardous waste, and radiation.
- B. In order to accomplish these goals most efficiently, it is necessary to provide for evolving policies for comprehensive environmental development and control on a statewide basis, and to unify, coordinate, and implement programs to provide for the most advantageous use of the

resources of the state and to preserve, protect, and enhance the quality of the environment in Louisiana.

Act 449 created the Office of Environmental Affairs (OEA) within the Department of Natural Resources. The OEA was established as the lead agency in the state concerned with environmental protection and regulation in the areas of air quality, water pollution control, solid waste management, nuclear energy and radiation, and hazardous wastes. The Office of Environmental Affairs also serves as a clearinghouse for all statements of environmental impact to be reviewed by state agencies in accordance with PL 91-190, NEPA.

Act 449 also established within the Office of Environmental Affairs the Environmental Control Commission. The Commission is composed of seven members (or their designated representatives) as follows:

- (1) The Secretary of the Department of Natural Resources
- (2) The Secretary of the Department of Wildlife and Fisheries
- (3) The Secretary of the Department of Health and Human Resources
- (4) The Secretary of the Department of Commerce
- (5) The Commissioner of Agriculture
- (6) The Secretary of the Department of Transportation and Development
- (7) The Secretary of the Department of Culture, Recreation and Tourism.

The Environmental Control Commission has the powers and duties to promulgate rules, regulations, and standards for the protection of the environment as provided by Act 449. The Commission also is responsible for granting or denying permits, licenses, registrations, and compliance schedules pursuant to provisions in the Environmental Affairs Act.

Act 449 was, in many respects, a reorganization law that brought most of the environmental protection functions of Louisiana under the jurisdiction of one agency.

The Louisiana Administrative Procedures Act (L.R.S. 49:951 et seq.) establishes procedural requirements that all state agencies in Louisiana must abide by when issuing environmental regulations or permits. The Act establishes an appeals process for review of any agency ruling, order, or decision. Proceedings for review may be instituted by filing a petition in the district court of the parish in which the agency is located within thirty days after mailing of notice of the final decision by the agency. Copies of such a petition must be served upon the agency and all parties of record. Following the service of the petition, the agency has 30 days to transmit to the reviewing court a copy of the entire record of the proceeding under review. The court shall then conduct the review without a jury. The review is to be confined to the record. The court will then affirm, reverse, or modify the decision of the agency, or remand the case for further proceedings.

The official Rules of Procedure (Rules), published by the Environmental Control Commission, is a direct response to the Administrative Procedures Act. The Rules lay out procedures for adoption and amendment of regulations, investigations and enforcement, public meetings and hearings, rules of evidence, official notice, etc. The Administrative Procedures Act is the legislative foundation that guarantees that agency actions taken on permit requests will not be capricious or arbitrary in their nature.

SECTION III. RESOURCE EXTRACTION

CHAPTER 3. ENERGY RESOURCES EXPLORATION AND EXTRACTION

Energy resources exploration and extraction is discussed in three parts. Part A examines oil and gas regulations; Part B deals with the surface mining of coal and lignite; and Part C describes the regulatory control over geothermal resources. All of these programs are administered by the Office of Conservation within the Louisiana Department of Natural Resources.

PART A. Oil and Gas

1. Authorizing Statute:

L.R.S. 30:1 et seq.

2. Title of Regulation:

Statewide Orders 29-B through 29-L

3. Summary of Regulations

a. Applicability

These statewide orders apply to all oil and gas well operations in the State of Louisiana, including drilling and production.

b. General Requirements

An approved permit to drill is required from the Office of Conservation for all oil and gas wells. An approved work permit is required for any subsequent modification to or work done on an existing well. Any work performed on an oil or gas well must also adhere to recordkeeping and reporting requirements, safety standards, performance standards, engineering specifications,

and other operating requirements as spelled out in the regulations.

c. Submittal Requirements

A permit application must contain three copies of the surveyed location plat, the proposed total depth and proposed completion (geological) zone of the well. The plats must show the amount and location of the acreage, as well as all pertinent lease and property lines, leases, and offset wells. When the tract to be drilled is composed of separately owned interests which have been pooled, the boundaries to and the acreage in each separately owned interest must be indicated. If possible, the application should provide the name and address of the drilling contractor.

d. Public Hearing

Public hearings are required for establishment, modifications to, or revisions of conservation production units.

e. Time Requirements

An applicant, upon receipt of permit, must begin drilling within ninety days or request a permit renewal.

f. Fees

Initial permit to drill - \$100.00

Renewal of permit to drill - \$25.00

Work permit - no fee

g. Appeals Process

An applicant has judicial recourse to appeal unitization orders or permit denials in accordance with provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Conservation
P. O. Box 44275
Baton Rouge, Louisiana 70804
Telephone: (504) 342-5540

5. Relation to Other State and Federal Programs

None identified.

PART B. Surface Mining of Coal and Lignite

Generally, Louisiana's Surface Mining Regulations contain two basic elements: 1) a surface mining permit process, and 2) surface mining program performance standards. These two elements are discussed below.

Surface Mining Permit Process

1. Authorizing Statute

L.R.S. 30:901 et seq.

2. Title of Regulation

Statewide Order 29-0-1 adopting rules and regulations under the Louisiana Surface Mining and Reclamation Act.

3. Summary of Permit Process

a. Applicability

This regulation governs all activities relating to the mining and exploration for coal and lignite in the State of Louisiana.

b. General Requirements

An approved permit is required from the Office of Conservation for all types of coal and lignite exploration, development operations, and surface mining and reclamation.

c. Submittal Requirements

Information that must be included with a surface mining permit application is specified and classified in Parts 178, 179, 180, and 185 of the regulations:

- Part 178 specifies legal, financial, compliance history, and other related information requirements;
- Part 179 specifies environmental resources information;
- Part 180 details reclamation and operations plan requirements; and
- Part 185 prescribes informational requirements relating to special categories of mining.

d. Public Hearing

An applicant is required to publish a Public Notice of the application filing once a week for four consecutive weeks in a

local newspaper in the locality of the proposed operations. A public hearing may be held following a 30-day public comment period if the Commissioner of Conservation decides that there is a significant public interest or if there is a formal request for a hearing.

e. Time Requirements

Time requirements for acting upon a permit request will vary according to: 1) the time needed for proper investigation of the proposed permit, 2) the complexity of the application, and 3) whether written objections to or comments on the application have been filed with the Office of Conservation. Generally, permit decisions are made 60 days after the filing of an application at the earliest, and eight months after filing at the latest.

f. Fees

Exploratory permit - \$50.00

Development operations permit - \$75.00

Surface mining/reclamation permit - \$1,750.00

Minimum bond requirements - \$10,000

g. Appeals Process

After administrative remedy has been exhausted, any aggrieved person has the right to file a lawsuit in the district court of the parish in which the principal office of the Commissioner of Conservation is located.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Conservation, Surface Mining Division
P. O. Box 44275
Baton Rouge, Louisiana 70804
Telephone: (504) 342-5540

5. Relation to Other State and Federal Programs

The Office of Conservation has assumed primacy for implementation of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201, in the State of Louisiana.

Surface Mining Performance Standards

1. Authorizing Statute

Louisiana Surface Mining and Reclamation Act
L.R.S. 30:901 et seq.

2. Title of Regulation

Statewide Order 29-0-1

3. Summary of Standards

a. Applicability

Standards apply to all activities relating to the exploration for and mining of coal and lignite in the State of Louisiana.

b. General Standards and Requirements

Any person or company engaged in surface coal mining or reclamation operations must adhere to standards and requirements that have been adopted by the Office of Conservation. These program performance standards are discussed in detail in Subchapter K of Statewide Order 29-0-1. Generally, they include requirements for: casing and sealing, topsoil activities, hydrologic balance, use of explosives, disposal of excess spoil, coal processing waste, backfilling and grading, revegetation, cessation of operations, roads, operations on prime farmland, and other factors. There are also bonding and insurance requirements that all operators must satisfy.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Conservation
Surface Mining Division
P. O. Box 44275
Baton Rouge, Louisiana 70804

5. Relation to Other State and Federal Programs

The Office of Conservation has assumed primacy for implementation of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201, in the State of Louisiana.

PART C. Geothermal Resources

I. Authorizing Statute

Geothermal Energy Resources
L.R.S. 30:800-809

2. Title of Regulation

Statewide Order No. 29-P adopting rules and regulations governing the drilling for and production of geothermal resources in the State of Louisiana.

3. Summary of Permit Process

a. Applicability

The regulation applies to any well drilled to develop products of geothermal processes, including indigenous steam, hot water, hot brines, and geopressured waters. The regulation does not apply, however, to water produced incidental to oil or gas exploration or production.

b. General Requirements

A permit is required to drill wells for geothermal resources or to convert existing wells to geothermal development.

c. Submittal Requirements

An application for this permit to drill must be accompanied by three copies of the location plat. The plats must be constructed from data compiled by a registered civil engineer or surveyor and must show the amount and location of the acreage. All pertinent lease and property lines, leases, and offset wells, including oil and gas wells, must also be shown. When the tract to be drilled is composed of separately owned interests which have been pooled or unitized, the boundaries to and the acreage in each separately owned interest must be indicated. If possible, the application should give the name and address of the drilling contractor.

d. Public Hearing

The Commissioner of Conservation will hold a public hearing before granting any exception to the drilling and producing methods prescribed in the regulation.

e. Time Requirements

Permit applications will be acted upon in a timely fashion in accordance with provisions of the Administrative Procedures Act.

f. Fees

Initial permit to drill - \$100.00

Renewal of permit to drill - \$25.00

Work permit - no fee

g. Appeals Process

Any person has the right to file a lawsuit to reverse an action issuing or denying a permit in accordance with the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Conservation
P. O. Box 44275
Baton Rouge, Louisiana 70804
Telephone: (504) 342-5540

5. Relation to Other State Programs

None identified.

CHAPTER 4. METALLIFEROUS MINING

No legislation or regulations exist in Louisiana at the state level which directly govern metalliferous mining activities.

CHAPTER 5. CONSTRUCTION MATERIALS

The Office of Environmental Affairs directly regulates the extraction of sand and gravel in Louisiana in the manner described below. No other regulatory programs are dedicated solely to the extraction of construction materials.

1. Authorizing Statute

L.R.S. 56:1435, 1439

2. Title of Regulation

Rules pertaining to the extraction of sand and/or gravel in the State of Louisiana.

3. Summary of Regulation

a. Applicability

The regulation applies to any person operating a facility to extract sand or gravel, or to remove overburden in preparation for such extraction.

b. General Requirements

A permit to extract sand or gravel from natural deposits in the State of Louisiana is required unless an affidavit of no discharge has been filed with the Environmental Control Commission.

c. Submittal Requirements

Permit applications must contain: (a) such minimum effluent characteristics as discharge flow rate(s) and frequency, pH, total suspended solids and turbidity content; (b) receiving stream(s) and topographic map showing site locations; (c) any other

pertinent information intrinsic to the control and discharge of the effluent(s).

d. Public Hearing

Any application submitted to the Office of Environmental Affairs will be submitted to the Environmental Control Commission, with staff recommendation, at a subsequent Commission public hearing.

e. Time Requirements

The Commission will either grant or deny a permit within 90 days of the filing of a complete application.

f. Fees

No permit application fees are provided for in the regulation.

g. Appeals Process

Any person has the right to file a lawsuit to reverse an action issuing or denying a permit in accordance with provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Environmental Affairs
P. O. Box 44066
Baton Rouge, Louisiana 70804
Telephone: (504) 342-1265

5. Relation to Other State and Federal Programs

None identified.

SECTION IV. LAND USE REGULATION

CHAPTER 6. MAJOR FACILITY SITING

There are no laws or regulations at the state level in Louisiana that directly govern the siting of major industrial facilities. Facility siting is indirectly regulated, however, through requirements to meet established environmental quality criteria. Facility siting may also be regulated by local government zoning laws, which are not discussed here.

CHAPTER 7. LAND USE

Two regulatory programs relating to land use are discussed below. Part A describes the granting of rights-of-way over state-owned lands, and Part B describes forest land control programs.

PART A. Rights-of-Way Over Public Lands

1. Authorizing Statute

L.R.S. 41:1173-1174

2. Title of Regulation

Granting of Pipeline Rights-of-Way to Corporations or Individuals

3. Summary of Legislation and Regulation

a. Applicability

Current legislation delegates authority to the Secretary of the Department of Natural Resources to grant rights-of-way across and through any public lands belonging to the State of Louisiana. Pursuant to the legislation, the Secretary has adopted rules and regulations concerning the granting of pipeline rights-of-way. These rules are currently being reviewed and revised to apply to any other activities (e.g., electric power transmission lines) that cross state-owned lands.

b. General Requirements

A right-of-way permit is required for any pipeline and associated above-ground installations that cross state-owned public lands.

c. Submittal Requirements

Applicants are to use the State Right-of-Way form provided by the Department of Natural Resources. The Right-of-Way form must be submitted in triplicate with a legal size plat attached to each copy. The Right-of-Way form must be accompanied by a letter of intent which shall contain the following information:

- (a) Initiating and terminating point of the pipeline
- (b) Point of origin of product to be transported as a result of this construction
- (c) Capacity or, if a loopline, added capacity as a result of this construction
- (d) Estimated volume of product to be transported as a result of this construction
- (e) A detail of construction
- (f) Pipe specifications including size, wall thickness and type
- (g) The proposed and maximum operating pressures.

d. Public Hearing

Not applicable to granting of rights-of-way.

e. Time Requirements

No specific time requirements are provided for in the rules.

f. Fees

Fees for permits are as follows:

Class 1. Pipe 2 inches up to 19 inches outside diameter -
\$25.00 per rod

Class 2. Pipe 19 inches up to 36 inches outside diameter -
\$35.00 per rod

Class 3. Pipe 36 inches outside diameter or larger - \$45.00
per rod

g. Appeals Process

If right-of-way permit is denied, an applicant has the right to file a lawsuit to reverse the action in accordance with provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Natural Resources
Division of State Lands
P. O. Box 1412
Baton Rouge, Louisiana 70804
(504) 342-4577

5. Relation to Other State and Federal Programs

A Coastal Use Permit will also be required from the Division of State Lands if a proposed activity is located in the coastal zone.

PART B. Forest Land Control

The Office of Forestry within the Louisiana Department of Natural Resources directly manages the resources on the 8,000 acres of state-owned land known

as the Alexander State Forest. Currently, the Office of Forestry issues a special permit for firewood cutting on this land

Pursuant to L.R.S. 14:204, the Office of Forestry also requires notification from landowners of intent of controlled burning on any wood lands or forest lands in the state. No permits are issued in relation to this program; the program relies upon verbal cooperation between landowners and the Office of Forestry for its implementation.

Other than these two programs, the Office of Forestry does not directly administer regulatory programs stemming from state legislation, but does participate in environmental planning and review for other programs (e.g., Section 208 Water Quality Management Plans), both federal and state.

1. Authorizing Statute

L.R.S. 14:204

2. Administering Agency

Louisiana Department of Natural Resources
Office of Forestry
P. O. Box 1628
Baton Rouge, Louisiana 70821
(504) 925-4500

CHAPTER 8. FLOODPLAIN MANAGEMENT

The Office of Planning and Technical Assistance within the Louisiana Department of Urban and Community Affairs is responsible for the planning and administration of state participation in the National Flood Insurance Program and advises and coordinates the efforts of political subdivisions seeking to qualify for participation in the program. The heart of the program, as it currently functions, is the requirement that a city or parish adopt floodplain rules or ordinances restricting certain types of development in floodplains in order for flood insurance to be available. The responsibility for qualifying for the program rests with the individual political subdivisions.

The Office of Public Works within the Louisiana Department of Transportation and Development functions as the coordinating state agency for review and comment on U.S. Army Corps of Engineers (Corps) flood control projects. The director of the Office of Public Works is the Governor's official representative with respect to Corps projects.

There are, in addition, twenty-two (22) Levee Districts in the State of Louisiana, created pursuant to L.R.S. 38:81 et seq. Each of the Levee Districts is governed by a Board of Levee Commissioners whose powers and duties are specified by state law. Generally, each Levee Board has the responsibility to adopt rules and regulations for a comprehensive levee system within the geographical boundaries of the levee district. The Office of Public Works functions as the official engineering advisor to the various Levee Boards on all activities affecting those flood control or drainage works under their jurisdiction.

I. Administering Agencies

Louisiana Department of Transportation and Development
Office of Public Works
P. O. Box 44155, Capitol Station
Baton Rouge, Louisiana 70804
(504) 342-7535

Office of Planning and Technical Assistance
Louisiana Department of Urban and Community Affairs
P. O. Box 44455
Baton Rouge, Louisiana 70804
(504) 925-3756

SECTION V. ENVIRONMENTAL QUALITY MANAGEMENT

CHAPTER 9. AIR QUALITY STANDARDS AND REGULATIONS

Louisiana's Air Quality Standards and Regulations contain two basic elements: 1) an air emission permit process, and 2) air emission standards. The air emission permit process is discussed in Part A below, and the emission standards are discussed in Part B.

PART A. Air Emission Permit Process

1. Authorizing Statute

Louisiana Air Control Law
L.R.S. 30:1081-1087

2. Title of Regulation

State of Louisiana Air Quality Regulations

3. Summary of Permit Process

a. Applicability

The permit requirement applies to any person planning to construct, modify, or operate any facility which may initiate or increase the emission of air contaminants.

b. General Requirements

An emissions permit is required for each source of emissions existing partially or wholly within the State of Louisiana.

c. Submittal Requirements

A permit request must describe the proposed action, specify the location of the facility, identify emission sources, summarize emissions and their effects on ambient air, and list proposed air pollution abatement measures that will be utilized to control the emissions from the sources identified.

d. Public Hearings

The applicant must publish a public notice in the Air Quality Control Region affected. Following a 30-day public comment period, an application will be considered in a public hearing of the Environmental Control Commission if there is a significant public interest or if the proposed action would result in air emissions of more than 100 tons annually.

e. Time Requirements

The regulations do not specify time requirements for acting on permit requests. For a major facility, permits are usually granted or denied within three to four months after acceptance by the Office of Environmental Affairs.

f. Fees

Applicants for a new permit are subject to a two-part fee consisting of a uniform nonrefundable filing fee of \$25.00 and a variable processing fee, which varies according to the Standard Industrial Classification (SIC) code of the proposed air contaminant source.

g. Appeals Process

Any person has the right to file a lawsuit to reverse a decision of the Environmental Control Commission granting or denying a permit in accordance with provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Environmental Affairs
P. O. Box 44066
Baton Rouge, Louisiana 70804
Telephone: (504) 3421265

PART B. Air Emission Standards

1. Authorizing Statute

Louisiana Air Control Law
L.R.S. 30:1081-1087

2. Title of Regulation

State of Louisiana Air Quality Regulations

3. Summary of Standards

a. Applicability

The standards apply to any source of emissions existing partially or wholly within the State of Louisiana.

b. General Standards

Ambient air quality standards have been adopted for seven classifications of air contaminants (e.g., particulates, lead, sulfur dioxide, carbon monoxide, etc.). These standards are designed to protect air quality throughout the State and are not linked to specific sources of emissions.

In addition to the ambient standards, specific emission standards have been adopted that apply to sources of air contaminants. It is the purpose of the emission standards to limit the actual quantity of air contaminants emitted.

c. Submittal Requirements

Associated with applicable emission standards, operators of facilities which emit contaminants must submit results of testing and continuous monitoring to the Office of Environmental Affairs (OEA). Notification of physical and operational modifications and excess emissions must also be made to the OEA.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Environmental Affairs
P. O. Box 44066
Baton Rouge, Louisiana 70804
Telephone: (504) 342-1265

5. Relation to Other State and Federal Programs

The Office of Environmental Affairs will assume authority, when such authority is delegated by the EPA, for the program administration and issuance of required permits of the New Source Review (NSR), that is directed at construction in Prevention of Significant

Deterioration (PSD) areas. OEA will also assume authority, when delegated, for implementation and enforcement of the National Emission Standards for Hazardous Air Pollutants (NESHAPS) for stationary sources located in the state, as well as any other such programs existing under the provisions of the Clean Air Act of 1972, as amended.

CHAPTER 10. WATER QUALITY STANDARDS AND REGULATIONS

Louisiana's water quality standards and regulations are discussed below in three parts. Part A describes the wastewater discharge permit process, operated by the Office of Environmental Affairs. Part B describes the water quality standards that the permit process has been designed to preserve and achieve. Part C describes the sewerage disposal permit system that remains under the jurisdiction of the Department of Health and Human Resources.

PART A. Wastewater Discharge Permit Process

1. Authorizing Statute

Louisiana Revised Statutes 30:1091-1095

2. Title of Regulation

State of Louisiana Water Quality Criteria

3. Summary of Permit Process

a. Applicability

The permit requirement applies to any person conducting an activity which results in discharge of pollutants into the waters of the State of Louisiana.

b. General Requirements

An approved permit is required for each source discharging waste waters into the waters of the State.

c. Submittal Requirements

A permit application must specify: the type of proposed facility, products of the facility, raw materials to be used, processes used which produce industrial wastes, the facility's source of water supply, anticipated date of startup, each discharge point with an identification of the discharge and its characteristics, how the waste would reach state waters, and proposed disposal methods and treatment facilities.

d. Public Hearing

The applicant must publish a public notice of permit application. Following a 30-day comment period, a public hearing may be held if there is a significant public interest in the proposed action.

e. Time Requirements

Most permit applications are processed and the permit is either issued or denied within 90 days of filing of the application.

f. Fees

Wastewater permit fees vary according to the number of points tallied on a permit rating sheet. The annual fee is \$50.00 per point, and major industrial facilities are currently totaling around 115 to 120 points. The maximum annual permit fee is \$20,000.

g. Appeals Process

Any person has the right to file a lawsuit to reverse a permit decision in accordance with provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Environmental Affairs
P. O. Box 44066
Baton Rouge, Louisiana 70804
Telephone: (504) 342-1265

5. Relation to Other State and Federal Programs

The Office of Environmental Affairs will assume authority, when such authority is delegated, for the administration of the National Pollution Discharge Elimination System (NPDES) Permit Program as well as any other such programs existing under the provisions of the Federal Water Pollution Control Act, as amended.

PART B. Water Quality Standards

1. Authorizing Statute

Louisiana Revised Statutes, Title 30:1091-1095

2. Title of Regulation

State of Louisiana Water Quality Criteria

3. Summary of Criteria

a. Applicability

Any project or development that would constitute a new source of surface water pollution or an increased source of pollution to any of the waters in Louisiana must conduct its operations so as to avoid violation of water quality criteria.

b. General and Numerical Criteria

General water quality standards have been adopted for the following characteristics: aesthetics; color; floating, suspended and settleable solids; taste and odor; toxic substances; oils and greases; foaming or frothing materials; nutrients; and turbidity. These standards are designed to protect water quality throughout the state and are not linked to specific sources of discharge.

Numerical standards have been adopted and applied to the specific streams and waters of Louisiana. Numerical criteria exist for: pH value of the water; chlorides, sulfates and dissolved solids; dissolved oxygen; water temperature; and bacterial levels. The standards for the various parameters vary according to the present and anticipated uses of the specific bodies of water. The most stringent criteria specified for each parameter are applicable where waters have been classified for multiple uses. The specific, applied standards for a given stream segment or body of water that a potential discharger must abide by are listed in tabular form in the regulations.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Environmental Affairs
P. O. Box 44066
Baton Rouge, Louisiana 70804
Telephone: (504) 342-1265

PART C. Sewerage Systems

I. Authorizing Statute

L.R.S. 40:11

2. Title of Regulation

Sanitary Code, State of Louisiana, Chapter 10

3. Summary of Regulation

a. Applicability

Chapter 10 of the Sanitary Code applies to any public or private sewerage disposal system.

b. General Requirements

The installation, significant modification, or operation of any public sewerage disposal system requires a permit from the State Health Officer. Installation of private systems also requires a permit.

c. Submittal Requirements

Detailed plans and specifications must be submitted for each proposed installation or major modification. Applications for public systems will be reviewed in accordance with the latest standards for Sewerage Works promulgated by the Great Lakes and Upper Mississippi Board of Sanitary Engineers.

Applications for individual systems must include the words, "The property designated hereon and its surroundings have been inspected and it has been determined that connection to community sewage disposal facilities is not feasible. The condition of the soil, the natural drainage, the estimated population density, and other factors are such that the construction and use of properly designed individual sewage disposal facilities are not likely to create a nuisance or public health hazard."

d. Public Hearing

Applications for installation of a public system could require a public hearing if revisions to any of the state's Section 208 Water Quality Management Plans would be needed to accommodate the facility's discharge.

e. Time Requirements

No specific requirements under the regulations.

f. Fees

None.

g. Appeals Process

A lawsuit may be filed to reverse a permitting decision in accordance with provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Health and Human Services
Bureau of Environmental Services
P. O. Box 60630
New Orleans, Louisiana 70160

CHAPTER II. PUBLIC WATER SUPPLY

The Louisiana Department of Health and Human Resources (DHHR) is responsible for issuing water supply permits and regulations in the State of Louisiana. The DHHR program is described in Part A below. Standards for public supply water wells have been promulgated by the Office of Public Works within the Department of Transportation and Development and are described in Part B.

PART A. Permit Requirements and Standards

1. Authorizing Statute

L.R.S. Title 40:1 et seq.

2. Title of Regulation

Sanitary Code, State of Louisiana, Chapter 8

3. Summary of Regulation

a. Application

The requirements of Chapter 8 of the Sanitary Code apply to every drinking, culinary, or ablutionary public water supply system in the State of Louisiana.

b. General Requirements

Construction, alteration, or operation of a public water supply requires a written permit from the State Health Officer. Furthermore, the Sanitary Code requires that water supplied for drinking, culinary, or ablutionary (bathing) purposes be:

- (a) Obtained from a source free from pollution; or
- (b) Obtained from a source adequately protected by natural agencies from the effects of pollution; or
- (c) Adequately protected by artificial treatment.

Such water must be clear, odorless, colorless, and not unpleasant to the taste. In addition, each public water supply shall comply with the National Interim Primary Drinking Water Regulations, Subparts A and B, paragraphs 141.1 through 141.16. Further, the water shall not contain excessive amounts of soluble mineral matter or of chemicals used in treatment. When necessary the water shall be treated to remove objectionable characteristics.

c. Submittal Requirements

To obtain a construction permit, detailed plans and specifications must be submitted in duplicate to the State Health Officer. The review and approval of plans and specifications submitted for issuance of a permit will be made in accordance with the latest standards for water works promulgated by the Great Lakes and Upper Mississippi Board of Sanitary Engineers.

If it is determined that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Interim Primary Drinking Water Regulations, variances and/or exemptions may be issued by the State Health Officer. Upon receipt of a variance and/or exemption, the owners of the public water supply must submit compliance and implementation schedules within 180 days.

Complete daily records, including reports of laboratory control tests, shall be kept on the operation of water treatment plants

on forms approved by the State Health Officer. A copy of such records shall be furnished monthly to the State Health Officer.

d. Public Hearing and Notification

A public hearing is not required for consideration of a permit.

If a public water system fails to comply with an applicable standard of the Sanitary Code, the supplier of water must notify persons served by the system of the failure.

e. Time Requirements

A permit application will normally be evaluated and approved within 90 days, although there are no specific requirements set forth in the regulations.

f. Fees

None.

g. Appeals Process

Any applicant has the right to file a lawsuit to reverse a permit denial in accordance with provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Health and Human Resources
Bureau of Environmental Services
P. O. Box 60630
New Orleans, Louisiana 70160

5. Relation to Other State and Federal Programs

All wells constructed to serve a public water supply must be constructed and registered in accord with standards promulgated by the Office of Public Works (see Part B below).

PART B. Water Well Registration and Construction Standards

1. Authorizing Statute

State Act 535 of 1972

2. Title of Regulation

Rules, Regulations, and Procedures for Water Well Registration

3. Summary of Registration Process

a. Applicability

This regulation applies to all wells used to supply a public water system, regardless of yield, and all other water wells capable of producing more than 50,000 gallons per day.

b. General Requirements

All applicable wells are required to be registered with the Office of Public Works within the Louisiana Department of Transportation and Development.

c. Submittal Requirements

Information that is required to register a water well includes: location of well, depth and diameter of hole, casing and screen information, water level and yield information, use of well,

driller's log, and other available information outlined in the registration form.

d. Public Hearing

Not required for registration.

e. Time Requirements

The registration form must be submitted to the Office of Public Works no later than 30 days after the well has been completed.

f. Fees

No fees are required to register a water well.

g. Appeals Process

Not applicable to registration.

4. Administering Agency

Louisiana Department of Transportation and Development
Office of Public Works
P. O. Box 44155, Capitol Station
Baton Rouge, Louisiana 70804

5. Summary of Water Well Construction Standards

a. Applicability

The standards for water-well drilling and construction are intended for use when drilling and constructing wells used for public-water systems and for use as guidelines or recommendations when drilling, constructing, and developing wells used for

other purposes. The standards are intended to complement Chapter 8 of the Sanitary Code, State of Louisiana, titled, "Water Supplies, Cold Storage and Ice Plants," in accordance with the Revised Statutes of 1950, Title 40, as amended.

b. General Standards

Standards have been adopted with regard to well location, use of well vents, placement of ground slabs, disinfection requirements, drilling methods, casing (materials, height, seals), screens, cementing and grouting, and well development. Standards have also been adopted which apply to the plugging and sealing of abandoned water wells and test holes.

6. Relation to Other State and Federal Programs

Water well standards are intended to complement Chapter 8 of the Sanitary Code, State of Louisiana, as stated above.

CHAPTER 12. WASTE MANAGEMENT

Waste management is discussed in two sections in this chapter. Part A describes Louisiana's Solid Waste Management program administered by the Office of Environmental Affairs. Part B describes the regulation of waste disposal wells under the jurisdiction of the Office of Conservation. Hazardous waste rules and regulations are discussed in Chapter 13.

PART A. Solid Waste Management

Louisiana's Solid Waste Management Program contains two basic elements: 1) a solid waste permit process, and 2) solid waste activity standards. The permit process is described in Section 3 below, while the standards are summarized in the following Section 4.

1. Authorizing Statute

L.R.S. 30:1121-1124

Louisiana Solid Waste Management and Resource Recovery Law

2. Title of Regulation

Louisiana Solid Waste Rules and Regulations

3. Summary of Permit Process

a. Applicability

Applies to all facilities which process or dispose of solid waste.

b. General Requirements

A permit must be secured by all processors and disposers of solid waste. However, the following permits must be applied for prior to the issuance of a solid waste disposal permit:

- (1) NPDES (Section 402 of the Clean Water Act)
- (2) Air Emission
- (3) U.S. Army Corps of Engineers permit (Dredge & Fill - Section 404 of the Clean Water Act) for sites located in a floodway concerning reduction in carrying capacity and restriction in flow of floodway.

In addition, any applicant must obtain assurance from local governing authority that the proposed use does not violate existing zoning or other land use regulations.

c. Submittal Requirements

A permit application consists of Part I (general information) and Part II (supplementary information). Collectors and transporters must submit Part I, while processors and disposers of solid waste must submit Parts I and II of the application form. Information required in Part I generally includes: facility location, type and purpose of operation, status of site, other environmental permits applied for, zoning of site, and types and quantity of wastes.

Supplementary information required of Part II of the application includes: an area master plan, a site master plan (hydrological, geological, environmental, and other characteristics), facility plans and specifications, operation plan, closure plan, post-closure plan, and evidence of financial responsibility.

d. Public Hearing

Public notification will be published in a local newspaper after acceptance of the application for review. A public hearing will be held when the Assistant Secretary of the Office of

Environmental Affairs determines that a hearing is necessary based on comments received and other information.

e. Time Requirements

A permit decision will be issued in a timely manner subsequent to a 30 day comment period and any public hearing.

f. Fees

None.

g. Appeals Process

Any person has the right to file a lawsuit to reverse the Environmental Control Commission's action issuing or denying a permit in accordance with provisions of the Administrative Procedures Act.

4. Summary of Standards

Standards have been adopted governing generators, transporters, processors, and disposers of solid waste.

Generators of solid waste are subject to accumulation standards as detailed in Section 7.1 of the regulations.

Collectors and transporters are subject to requirements for vehicles, truck holding areas, pick-up stations, and transfer stations as outlined in Section 7.2.

Processors and disposers of solid waste are subject to standards for sites (soils, hydrology, other location characteristics, etc.) and administration (recordkeeping, security, emergency procedures, financial responsibility, etc.), while special requirements exist

governing sanitary landfills and incinerators. All of these are detailed in Sections 7.3.1 through 7.3.4 of the regulations.

Finally, standards have been issued that apply to resource recovery facilities and refuse-derived energy facilities. The special provisions applicable to such facilities are discussed in Section 7.4 of the regulations.

5. Administering Agency

Louisiana Department of Natural Resources
Office of Environmental Affairs
P. O. Box 44066
Baton Rouge, Louisiana 70804
Telephone: (504) 342-1265

6. Relation to Other State and Federal Programs

The enactments of Acts 449 of 1979 and 507 of 1980 have incorporated the objectives and elements of the RCRA Subtitle D State Solid Waste Plan into Louisiana State Law. States, under RCRA Subtitle D, are encouraged to adopt regulations governing the disposal of solid waste. These rules and regulations are Louisiana's response to Subtitle D of RCRA.

PART B. Waste Disposal Wells

I. Authorizing Statute

L.R.S. 30:10, 3 (1) (c) and 4C (16)

2. Title of Regulation

Statewide Order No. 29-N adopting rules and regulations to regulate the disposal of waste products in the subsurface by means of a disposal well.

3. Summary of Regulation

a. Applicability

The regulation applies to all waste disposal wells into which any liquid, sludge, effluent, semi-liquid or other substance resulting from any process is injected.

b. General Requirements

All waste disposal wells and any associated surface storage or treatment facilities require a permit and must be constructed according to construction standards set forth in the regulation. Information reporting requirements for each waste disposal well are also specified in the regulations.

c. Submittal Requirements

An application for a permit must specify:

- The name and address of the owner and operator of the proposed facility.
- A plan showing the location of the well, related surface activities, and property boundaries;
- A log of a nearby well showing the proposed injection zone;
- A description of the hydrology and geology of the area;

- Description of chemical, physical, and biological properties and characteristics of the waste to be injected;
- Volume, injection rate, and calculated injection pressure;
- Contingency plans designed to cope with failures in order to prevent ground water contamination; and
- Well construction data.

The Commissioner of Conservation has the option to require additional information.

d. Public Hearing

The applicant is required to issue public notice of intent to request a permit for a waste disposal well. A public hearing will be held following a 30 day comment period if the Commissioner of Conservation finds that there is a significant public interest.

e. Time Requirements

Decision on an application will normally be made within two weeks following a public hearing.

f. Fees

No fees are required for a waste disposal well permit.

g. Appeals Process

Any person has the right to file a lawsuit to reverse an action issuing or denying a permit in accordance with the provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Conservation
P. O. Box 44275
Baton Rouge, Louisiana 70804
Telephone: (504) 342-5540

5. Relation to Other State and Federal Programs

None identified.

CHAPTER 13. HAZARDOUS WASTE AND RADIOACTIVE MATERIALS CONTROL

Generally, Louisiana's hazardous waste rules and regulations contain two basic controls: 1) a hazardous waste permit process, and 2) hazardous waste standards. The permit process is discussed in Part A below, while the standards are briefly described in Part B. Part C describes the activities under regulatory control of the Nuclear Energy Division.

PART A. Hazardous Waste Permit Process

1. Authorizing Statute

L.R.S. 30:1101-1116

(Act 334 of the 1978 Louisiana Legislature)

2. Title of Regulation

Rules and Regulations of the Hazardous Waste Management Plan as Mandated by Act 334 of 1978

3. Summary of Permit Process

a. Applicability

The hazardous waste rules and regulations that have been adopted apply specifically to materials identified in one of three categories.

- Those known chemicals and process streams whose hazardous nature have been determined and which are presented in Appendix A of the regulations;
- Those special waste categories defined in Section 4.2.1 of the regulations, generally consisting of large volumes with

consistent characteristics such as typical mining wastes;
and

- Other wastes possessing any of the characteristics of the hazard classes listed in Appendix A of the regulations. Hazard classes of concern are ignitability, corrosivity, reactivity, and toxicity.

c. Submittal Requirements

An application for a hazardous waste permit must specify: company name, company address, name of individual to be contacted concerning hazardous waste management, telephone, type of operation, purpose (treatment, storage, or disposal), ownership status of land for proposed site, operation status, site description, existing environmental permits for the site, other company hazardous waste operations in Louisiana, other states in which hazardous waste operations have been conducted, zoning of site, and any other comments deemed appropriate.

Supporting information that must be submitted to facilitate permit evaluation includes: site geology data, site hydrology data, site socioeconomic data, data on other environmental factors, an operations plan, closure plans, financial data, and any other information that the Secretary of the Department of Natural Resources deems appropriate.

d. Public Hearing

Public hearings will be held as follows:

- (a) A public hearing will be held for a permit for a commercial site.

(b) For a permit for all other facilities, the Secretary will determine the necessity for a public hearing based on comments received and other available information.

e. Time Requirements

Permits will be issued or denied not later than 150 days after acceptance of the permit application for review.

f. Fees

A one-time application fee is charged to cover application, evaluation, and other related program costs. The application fee is calculated according to the schedule below:

Fee Schedule¹

<u>Item</u>	<u>Fee</u>
Site Analysis--per acre site size	\$ 250 ²
Process and plan analysis	1,000
Facility analysis--per facility ³	500
Management/financial analysis	1,000

Notes: Fee equals total of the four items.

1. Initial payments are limited to a total of \$15,000.
2. Up to 100 acres, no additional fee thereafter.
3. Incinerator, landfarm, treatment pond, etc., each counted as a facility.

g. Appeals Process

Any person has the right to file a lawsuit to reverse an action issuing or denying a permit in accordance with the provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Environmental Affairs
P. O. Box 44066
Baton Rouge, Louisiana 70804
Telephone: (504) 342-1265

5. Relation to Other State and Federal Programs

These rules and regulations pursuant to Act 334 of the 1978 Legislature are Louisiana's response to Subtitle C of PL 94-580, the Resource Conservation and Recovery Act of 1976.

It is noted that radioactive and nuclear wastes are excluded from the hazardous waste permit process. Such wastes fall specifically under the licensing requirements of the Nuclear Energy Division of the Office of Environmental Affairs.

PART B. Hazardous Waste Standards

1. Authorizing Statute

L.R.S. 30:1101-1116

2. Title of Regulation

Rules and Regulations of the Hazardous Waste Management Plan as Mandated by Act 334 of 1978

3. Summary of Standards

a. Applicability

Standards that have been promulgated apply to generators of hazardous waste, transporters of hazardous waste, and to facilities which treat, store, and/or dispose of hazardous wastes or special wastes.

b. General Standards and Requirements

Standards applicable to generators of hazardous waste include: recordkeeping and reporting requirements, packaging and labelling standards for hazardous waste shipments to off-site locations, and standards governing use and reuse of containers.

Standards applicable to transporters of hazardous waste include: vehicle marking requirements, placarding requirements, record-keeping requirements, an identification code, evidence of financial responsibility, manifest compliance requirements, and standards governing the use of containers.

Standards applicable to facilities which treat, store, and/or dispose of hazardous wastes are extensive and fall into five classes: site environmental acceptability requirements, facilities standards, administration requirements, closure and post-closure requirements, and financial responsibility requirements.

c. Submittal Requirements

Generators of hazardous waste must notify the Department of Natural Resources (DNR) listing the type and estimated quantities of hazardous waste they presently handle and must

notify the Department of any significant changes or of any new hazardous waste they plan to handle.

Generators who generate and dispose, treat, or store their hazardous waste on-site must submit quarterly reports to the DNR, including total quantity, by type, of waste handled and how that waste was disposed, treated, or stored.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Environmental Affairs
P. O. Box 44066
Baton Rouge, Louisiana 70804
Telephone: (504) 342-1265

PART C. Radioactive Materials Control

1. Authorizing Statute

L.R.S. 30:1102-1115

2. Title of Regulation

Louisiana Radiation Regulations

3. Summary of Regulation

a. Applicability

The regulations are applicable to all persons involved in any activity or use of radiation emitting processes or facilities that do not specifically fall under the jurisdiction of the Nuclear Regulatory Commission.

b. General Requirements

An approved license is required to undertake any activity involving radioactive materials. Any machine that produces or is a source of radiation is required to be registered.

c. Submittal Requirements

An application for a license must include the applicant's name and address, a detailed description of the proposed usage, a listing of the applicant's qualifications for the proposed activity, and any other information that the Administrator of the Nuclear Energy Division deems appropriate. Registration of a machine that produces radiation will require a description of the machine's function, along with its make, model, and serial number.

d. Public Hearing

A public hearing on a license application may be held if there is a significant public interest at stake in the granting or denial of the license (e.g., low level nuclear waste facility). In such cases, the Administrator of the Nuclear Energy Division will usually defer the decision to hold a public hearing to the Environmental Control Commission.

e. Time Requirements

License applications are usually acted upon within one or two weeks, with the exception of low-level nuclear waste facilities or other projects with a significant public interest.

f. Fees

No fees for license applications are currently required. A fee structure is under consideration and may become effective in 1981.

g. Appeals Process

Any person has the right to file a lawsuit to reverse an action issuing or denying a license in accordance with provisions of the Administrative Procedures Act.

4. Administering Agency

Louisiana Department of Natural Resources
Office of Environmental Affairs
Nuclear Energy Division
P. O. Box 14690
Baton Rouge, Louisiana 70898
Telephone: (504) 925-4518

5. Relation to Other State and Federal Programs

Louisiana's hazardous waste management rules and regulations specifically exclude control over radioactive wastes. Regulation of radioactive wastes not controlled by the U.S. Nuclear Regulatory Commission falls under the jurisdiction of the Nuclear Energy Division.

CHAPTER 14. ENVIRONMENTAL NOISE REGULATION

L.R.S. 40:3 gives authority to the Office of Health Services and Environmental Quality within the Louisiana Department of Health and Human Resources to regulate environmental noise that poses a "menace to the public health." No formal regulations have ever been issued pursuant to this authority, and none are currently under consideration.

SECTION VI. SOCIAL/ECOLOGICAL PRESERVATION

CHAPTER 15. RARE AND ENDANGERED SPECIES

Louisiana has adopted state legislation comparable to the Federal Endangered Species Act. This state legislative program is described below.

1. Authorizing Statute

Threatened and Endangered Species Conservation Act
L.R.S. 56:1901-1907

2. Title of Regulation

No formal regulations have been issued pursuant to the above Act.

3. Summary of Legislation

Any species of wildlife determined to be an endangered species pursuant to the federal Endangered Species Act is deemed to be an endangered or threatened species under the provisions of the Louisiana Act.

In addition to the species deemed to be endangered or threatened pursuant to the federal Endangered Species Act, the Wildlife and Fisheries Commission may, by regulation, determine whether any species of wildlife occurring within Louisiana is an endangered or threatened species because of any of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) overutilization for commercial, sporting, scientific, education, or other purposes;

- (3) disease or predation;
- (4) the inadequacy of existing regulatory mechanisms; or
- (5) other natural or manmade factors affecting its continued existence within this state.

The Wildlife and Fisheries Commission may not add a species to nor remove a species from any list published pursuant to the Act unless it has first:

- (1) Published a notice of such proposed action in conformity with the provisions of the Louisiana Administrative Procedures Act as contained in R.S. 49:951 through R.S. 49:966, as amended;
- (2) Allowed at least 30 days following publication for comment from the public and other interested parties.

Under the legislation, the Wildlife and Fisheries Commission is authorized to issue such regulations as it deems necessary to provide for the conservation of species determined to be threatened or endangered. To date, no formal regulations have been issued. Actions taken by the Commission have been on an informal basis.

4. Administering Agency

Louisiana Department of Wildlife and Fisheries
Environmental Section
P. O. Box 44095
Baton Rouge, Louisiana 70804
Telephone: (504) 342-5864

CHAPTER 16. ARCHAEOLOGICAL AND HISTORICAL

Louisiana's archaeological and historical regulatory programs are discussed below. Regulation of archaeological and historical resources has been formally integrated in the Cultural Resources Code of Louisiana, administered by the Department of Culture, Recreation and Tourism.

1. Authorizing Statute

L.R.S. 41:1601-1613

2. Title of Regulation

Cultural Resources Code of Louisiana (draft)

3. Summary of Permitting Procedures

- a. Applicability

Any project or activity that would excavate, dig into, remove from, take, or alter any archaeological site or historic property on state-owned land or under state waters or on a State Cultural Resource Landmark.

- b. General Requirements

A permit is required for any applicable activity. There are two types of permits:

- Permits issued for ground alteration activities; and
- Permits issued for scientific investigation and/or educational purposes.

c. Ground Alteration Permit Process

If a state ground alteration permit is required, the following events will occur:

(a) The applicant must complete the permit request form supplied by the Assistant Secretary of the Office of Program Development including a description of the project and a vicinity map of the project area.

(b) The project description and vicinity map will be reviewed by the Assistant Secretary.

(c) Based on his findings, the Assistant Secretary will either recommend:

- That cultural resources are likely to be impacted and, therefore, a cultural resources investigation is necessary, or
- That no cultural resources are likely to be impacted and, therefore, no cultural resources investigation needs to be undertaken.

d. If no cultural resources investigation is recommended, the Secretary may issue a permit.

If a cultural resources investigation is recommended:

(a) The applicant will contact a professional archaeologist to conduct the investigation.

(b) The Assistant Secretary will review the investigative report to determine, first, whether or not the project will adversely impact any significant cultural resources and,

second, if so, whether or not such impact has been adequately investigated or mitigated.

- (c) Once the cultural resources in question have been adequately investigated and/or mitigated, the Secretary may issue a permit.

e. Scientific and Educational Permit Submittal Requirements

To obtain a scientific investigation permit, the applicant must provide:

- A statement of the purpose of the investigation;
- A research proposal;
- An accurate sketch plan of the particular site or area to be investigated and a USGS map showing the location;
- A proposed beginning date for the fieldwork and an estimated length of time which will be devoted to fieldwork;
- The location where the specimens, material, and data will be kept during the analysis of the results of the investigation;
- The proposed date for submission of a final report describing the results of the investigation; and
- Evidence of adequate funds, personnel, equipment, and facilities to complete the proposed investigation properly and to restore the landmark or state-owned land to a condition approved by the Secretary and the landmark landowner or the appropriate governmental official.

f. Public Hearing

Permit requests may be reviewed by the Antiquities Commission in open public meetings.

g. Time Requirements

None are provided in the Cultural Resources Code.

h. Fees

None.

i. Appeals Process

Any applicant whose application has been denied, or any other interested party who in any manner has been aggrieved, may file an appeal with the Secretary of the Department of Culture, Recreation and Tourism. Further appeals can be pursued in accordance with provisions of the Administrative Procedures Act.

4. Cultural Resource Investigation Standards

a. Applicability

Standards for cultural resource investigation and reports have been adopted to guide data collection and report preparation.

b. General Standards

Relevant data that should be collected at each site visited during a cultural resources investigation have been itemized, including physical characteristics of sites, and cultural site description

requirements for archaeological sites and architectural sites more than forty years old.

c. Submittal Requirements

Permit holders are responsible for preparation of a written report describing in full the results of the investigation.

5. Administering Agency

Louisiana Department of Culture, Recreation and Tourism
Office of Program Development
Division of Archaeology and Historic Preservation
P. O. Box 44247
Baton Rouge, Louisiana 70804
Telephone: (504) 342-6682

6. Relation to Other State and Federal Programs

Louisiana's Cultural Resource Code is administered in conjunction with the National Historic Preservation Act. Written clearance from the State Historic Preservation Officer for projects which are reviewed in accordance with Section 106 of the National Historic Preservation Act will function in lieu of a state permit, except in those cases where the purpose of the work involves a known and/or direct impact on a cultural resource such as the salvage of a sunken ship. In these cases a permit must be obtained from the Secretary.

CHAPTER 17. WETLANDS

The concept of wetlands does not lend itself to an easy, precise definition. The following regulatory program, implementing Louisiana's Water Bottoms Management Act, is described under the wetlands element for lack of a more precise classification.

1. Authorizing Statute

Water Bottom Management Act

Act 645 of 1978

(L.R.S. 41:1131 and L.R.S. 41:1701-1714)

2. Title of Regulation

Rules and Regulations to Implement Act 645 of 1978

3. Summary of Regulation

- a. Applicability

Reclamation of land lost through erosion, construction of bulkheads, flood protection structures, commercial wharves and piers, and other structures, and construction of landfills upon noneroded state lands.

- b. General Requirements

A reclamation or construction permit is required for any applicable activity. There are five distinct classes of permits:

- Class A permits to recover land lost through erosion
- Class B permits to construct bulkheads and flood protection structures

- Class C permits to construct commercial wharves and piers
- Class D permits to construct structures other than wharves and piers
- Class E permits to construct landfills upon noneroded state lands

c. Submittal Requirements

An applicant for a permit shall notify the Secretary of the Department of Natural Resources in writing of his intent to apply for a permit for works contemplated. In that letter, the applicant should describe the proposed work, identify the body of water involved, give the name and address of the owner of record of the land he occupies, or his rights upon, and provide written permission from the owner of record to do the work. Upon receipt of the applicant's letter, the appropriate application form will be forwarded to the applicant specifying additional information to be included.

Upon completion of the appropriate form, the applicant should:

- Send the form to the governing authority of the parish or parishes within which the works or structures will be located;
- Apply to the U.S. Army Corps of Engineers for the appropriate federal permit.

d. Public Hearing

If the Corps of Engineers declines jurisdiction over the proposed work, the applicant is required to issue a public notice if he has applied for a Class A permit. Applicants for Class B, C, D and E

permits will not have to publish notice except upon request by the governing authorities of the parish involved. A public hearing may be held if it is deemed to be appropriate following a comment period.

e. Time Requirements

A permit application will normally be approved or disapproved within two or three weeks after the 30 day comment period or the close of a public hearing, whichever is later.

f. Fees

\$50.00 application fee.

g. Appeals Process

An applicant, or any other affected party, may appeal a permit decision in accordance with procedures adopted by the Secretary of the Department of Natural Resources.

4. Administering Agency

Louisiana Department of Natural Resources
Division of State Lands
P. O. Box 44124
Baton Rouge, Louisiana 70804
Telephone: (504) 342-4577

5. Relation to Other State and Federal Programs

A Coastal Use Permit will also be required from the Division of State Lands if a proposed activity is located in the coastal zone.

CHAPTER 18. COASTAL ZONE REGULATIONS

Louisiana's coastal zone program is administered by the Division of State Lands within the Department of Natural Resources. The program's regulatory requirements are described below.

1. Authorizing Statute

Louisiana State and Local Coastal Resources Management Act of 1978
L.R.S. 49:213.1-213.21

2. Title of Regulation

Rules and Regulations to Implement the State and Local Coastal Resources Management Act

3. Summary of Regulation

a. Applicability

The regulation applies to any activity of state or local concern that would be commenced or carried out in a coastal zone as defined in Section 213.4, L.R.S. 49.

b. General Requirements

A coastal use permit is required for any applicable activity. Coastal zone activities considered to be of state or local concern are defined in the rules and procedures (e.g., dredging or filling, levee siting, mining activities, waste disposal activities, etc.).

c. Submittal Requirements

The application submitted shall contain the same information required for a Section 404 permit from the U.S. Army Corps of

Engineers and such additional information as the Secretary of the Department of Natural Resources determines to be necessary for proper evaluation of an application.

d. Public Hearing

Public notice of the receipt of all apparently complete applications for coastal use permits is required. A public hearing may be held in connection with the consideration of a coastal use permit if substantial issues are raised and there is a valid public interest to be served.

e. Time Requirements

A decision on a permit application will be made within 30 days of the giving of public notice or within 15 days after the closing of a public hearing, whichever is later.

f. Fees

No fees will be charged for the issuance of coastal use permits.

g. Appeals Process

The applicant, any affected local government or affected federal, state, or local agency, any aggrieved person, or any other person adversely affected by a coastal use permit decision may appeal the coastal use permit decision to the Louisiana Coastal Commission. An appeal must be filed in writing within 30 days following public notice of the final decision and shall be in accordance with procedures adopted by the Secretary.

4. Administering Agency

Louisiana Department of Natural Resources

Division of State Lands

P. O. Box 44124

Baton Rouge, Louisiana 70804

Telephone: (504) 342-4577

5. Relation to Other State and Federal Programs

None identified.

CHAPTER 19. NATURAL AND SCENIC STREAMS

Louisiana has adopted legislation to protect the pristine value of certain streams and rivers in the state. The regulatory program implementing this legislation is described below.

1. Authorizing Statute

Natural and Scenic Rivers System Act

L.R.S. 56:1841 through 56:1849

2. Title of Regulations

Guidelines and Procedures for Administration of the Natural and Scenic Rivers System Act

3. Summary of Regulation

a. Applicability

Any significant use made of the rivers and streams designated in L.R.S. 56:1846

b. General Requirements

A permit is required for any significant use of the rivers and streams designated by L.R.S. 56:1846. Classification of uses of the natural and scenic rivers include:

Class A Use: Absolutely Prohibited

The following uses of natural and scenic rivers are Class A uses and are absolutely prohibited:

- (a) Channelization;
- (b) Clearing and snagging;
- (c) Channel realignment;
- (d) Reservoir construction.

Class B Uses: Full and Thorough Evaluation Required

All other significant uses of the natural and scenic rivers and streams or their banks designated by L.R.S. 56:1846 are Class B uses. Evaluation is required for a permit for a Class B use, and must consider the following eleven parameters:

- (a) wilderness qualities
- (b) scenic values
- (c) ecological effects
- (d) recreation
- (e) fishing
- (f) wildlife
- (g) archaeological
- (h) geological
- (i) botanical
- (j) water quality
- (k) other natural and physical features and resources.

c. Submittal Requirements

An application fee for a permit shall include the name and address of the applicant, background information on the use, and all pertinent information on the proposed use, including an exact project description, plats of the proposed use, authorizing agency or agencies, photographs of the area, a full and thorough evaluation of how the project would affect the parameters listed above, alternatives to the proposed use, and a description of steps that have been taken to minimize harm to the river or stream.

d. Public Hearing

The Wildlife and Fisheries Commission must publish public notices in all newspapers in areas where there is reason to believe there would be an interest in a proposed use. The Wildlife and Fisheries Commission may schedule a public hearing if there is significant public interest in the granting or denial of a permit.

e. Time Requirements

If a public hearing is held, a decision shall be made to grant or deny the permit within 15 days after the hearing. If no public hearing is held, a decision may be made any time following a 30 day waiting period after public notice of a proposed use.

f. Fees

No fees are required.

g. Appeals Process

Any applicant or any person who participates either orally or in writing at a public hearing shall be entitled to appeal a permit decision.

4. Administering Agency

Louisiana Department of Wildlife and Fisheries
Environmental Section
P. O. Box 44095
Baton Rouge, Louisiana 70804
Telephone: (504) 342-5864

CHAPTER 20. LOCAL GOVERNMENT LAND USE

The authority given to local governments in Louisiana to exercise land use controls stems from Article VI of the Louisiana Constitution. Article VI, Section 5 gives any local governmental subdivision the authority to draft, adopt, or amend a home rule charter. Section 17 of Article VI provides the constitutional authority for local governments to enact land use controls as quoted below:

§ Land Use; Zoning; Historic Preservation

Section 17. Subject to uniform procedures established by law, a local governmental subdivision may (1) adopt regulations for land use, zoning, and historic preservation, which authority is declared to be a public purpose; (2) create commissions and districts to implement those regulations; (3) review decisions of any such commission; and (4) adopt standards for use, construction, demolition, and modification of areas and structures.

L.R.S. 33:4721-4732 establishes the legislative requirements that local governmental subdivisions must adhere to when adopting land use, zoning, and preservation ordinances. These requirements are essentially procedural and ensure that local land use controls are not arbitrary or capricious.