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States' Nutrient Management Plans Statutes & Regulations: *Louisiana*



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States' Nutrient Management Plans Statutes & Regulations:
Louisiana

LA Rev Stat §§ 30:2071, 2072, 2073, 2074(B)(3), (4), 2075, 2075.1
LA Admin Code 33:IX-2505
LA Admin Code 33:IX-2705(E)

*The statutes and Constitution are current through the 2018 regular and special legislative sessions.
The statutes are subject to changes by the Louisiana Law Institute Council.*

LA Rev Stat §§ 30:2071. Citation.

This Chapter shall be known and may be cited as the "Louisiana Water Control Law."

LA Rev Stat §§ 30:2072. Policy; purpose.

The legislature finds and declares that the waters of the state of Louisiana are among the state's most important natural resources and their continued protection and safeguard is of vital concern to the citizens of this state. To insure the proper protection and maintenance of the state's waters, it is necessary to adopt a system to control and regulate the discharge of waste materials, pollutants, and other substances into the waters of the state.

LA Rev Stat §§ 30:2073. Definitions.

As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

- (1) "Louisiana Pollutant Discharge Elimination System (LPDES)" means those portions of the Louisiana Environmental Quality Act and the Louisiana Water Control Law and all regulations promulgated under their authority which are deemed equivalent to the National Pollutant Discharge Elimination System (NPDES) under the Federal Water Pollution Control Act, otherwise known as the Clean Water Act, and for which Louisiana is the delegated authority. The LPDES specifically includes but is not limited to authority to issue all permits provided for under Sections 402 and 405 of the Federal Water Pollution Control Act, as well as the general permits program, the storm water discharge program, the pretreatment program, and the sewage sludge program.
- (2) "LPDES variance" means any mechanism or provision which allows modification to or waiver of permit conditions of state regulatory



requirements applicable to discharges of substances to waters of the state or to treatment works but does not include those variances which under federal law may only be granted by the Environmental Protection Agency.

(3) "Treatment works" means any plant or other works which accomplishes the treating, stabilizing, or holding of wastes.

(4) "Untreated wastes" means wastes which have not been treated in treatment works.

(5) "Wastes" means any material for which no use or reuse is intended and which is to be discarded.

(6) "Water pollution", except for the purposes of the Louisiana Pollution Discharge Elimination System, means the introduction into waters of the state by any means, including but not limited to dredge and fill operations, of any substance in concentrations which tend to degrade the chemical, physical, biological, or radiological integrity of such waters, including but not limited to the discharge of brine from salt domes which are located on the coastline of Louisiana and the Gulf of Mexico into any waters off said coastline and extending therefrom three miles into the Gulf of Mexico. For the purposes of the Louisiana Pollutant Discharge Elimination System, as defined herein, "water pollution" includes but is not limited to any addition of any pollutant or combination of pollutants to waters of the state from any source, or any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the Gulf of Mexico from any source other than a vessel or other floating craft which is being used as a means of transportation. For the purposes of the Louisiana Pollutant Discharge Elimination System, as defined in this Paragraph, the definition of "water pollution" further includes but is not limited to additions of pollutants into waters of the state from surface runoff, which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by the state, a municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by an indirect discharger to a publicly owned treatment works.

(7) "Waters of the state" means both the surface and underground waters within the state of Louisiana including all rivers, streams, lakes, groundwaters, and all other water courses and waters within the confines of the state, and all bordering waters and the Gulf of Mexico. However, for purposes of the Louisiana Pollutant Discharge Elimination System, "waters of the state" means all surface waters within the state of Louisiana and, on the coastline of Louisiana and the Gulf of Mexico, all surface waters extending therefrom



three miles into the Gulf of Mexico. For purposes of the Louisiana Pollutant Discharge Elimination System, this includes all surface waters which are subject to the ebb and flow of the tide, lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, impoundments of waters within the state of Louisiana otherwise defined as "waters of the United States" in 40 CFR 122.2, and tributaries of all such waters. "Waters of the state" does not include waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act, 33 U.S.C. 1251 et seq.

(8) "Bordering waters", as used in Paragraph (7) of this Section, means any waters of the state as otherwise defined, any part of which is located within the confines of the state, and any waters which touch the coastline of Louisiana as it borders on the Gulf of Mexico, and includes the waters of the Gulf of Mexico.

(9) "Public sanitary sewerage system" means a privately or publicly owned system intended to provide for the collection, conveyance, or treatment of waste water and other sewage for the public or such facilities owned by the public, if the system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. The term includes:

(a) Any collection, conveyance, treatment, storage, or discharge facilities under the control of the operator of the system and used primarily in connection with the system.

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

LA Rev Stat §§ 30:2074. Water quality control; secretary of environmental quality; powers and duties.

A. The department shall have the following powers and duties with respect to water quality control:

(1) To prepare and develop a general plan for the proper protection and control of the waters of the state.

(2) To make investigations on its own motion or upon the complaint of any person and by appropriate order to control, regulate, or restrain the discharge of any waste material or polluting substance discharged or sought to be discharged into any waters of the state in accordance with the provisions of R.S. 30:2025.

(3) To process all applications for certifications which applicants for federal or state licenses or permits are required to provide to



the appropriate agency. In connection with the issuance of such certificates, one notice of each application for a certification under this Paragraph must either be published in the official journal of the state or issued as a joint notice by the agency requiring the certification. In the event the secretary determines that there is significant public interest in the proposed activity, he shall cause notice to be published in a newspaper of general circulation in the affected area. The cost of publication of public notice shall be borne by the applicant. The notice shall provide that comments concerning the application may be filed with the department in accordance with regulations developed to implement this Chapter. After the time provided for public comment, the department shall act upon the application and take such action as it deems appropriate. If, as a condition to certification, the secretary proposes any alterations to the federal or state license or permit, as drafted, or proposes to deny the certification, the secretary shall promptly notify the applicant of the proposed alterations or denial, and shall provide the applicant an opportunity for a hearing in connection with such proposed alterations or proposed denial in accordance with R.S. 30:2024(A). Conditional certifications and certification denials shall be considered permit actions for all purposes.

(4) To administer the Clean Water State Revolving Fund as established in R.S. 30:2302. The department is also authorized to enter into contracts and other agreements in connection with the operation of the Clean Water State Revolving Fund to the extent necessary or convenient for the implementation of the Clean Water State Revolving Fund Program.

B. The secretary shall have the following powers and duties:

(1) To establish such standards, guidelines, or criteria as he deems necessary or appropriate to prohibit, control, or abate any of the following:

(a) Water pollution.

(b) Discharges into publicly owned treatment works in accordance with Sections 307 and 402 of the Federal Water Pollution Control Act.

(c) Use and disposal of sewage sludge in accordance with Section 405 of the Federal Water Pollution Control Act.

(2) To ascertain and determine, for record and for use in making regulations, what volume of water actually flows in any stream, as



well as the high and low water marks of waters of the state affected by the waste disposal or pollution of any person.

(3) To adopt and promulgate rules and regulations consistent with the general intent and purposes of this Chapter to prevent water pollution, including but not limited to the following:

(a) Regulations requiring compliance by users of publicly owned treatment works in accordance with Sections 307 and 402 of the Federal Water Pollution Control Act.

(b) Regulations requiring compliance with pretreatment standards and requirements in accordance with Sections 307 and 402 of the Federal Water Pollution Control Act.

(c) Regulations requiring the treatment of wastes in treatment works.

(d) Regulations prohibiting the unpermitted discharge of untreated or improperly treated wastes.

(e) Regulations prohibiting improper sewage sludge use or disposal, including but not limited to general requirements, pollutant limits, management practices, operational standards, and monitoring, recordkeeping, transporting, and reporting requirements for the final use or disposal of sewage sludge, when such use or disposal is by land application, surface disposal, disposal in a permitted landfill, or incineration, in accordance with Section 405 of the Federal Water Pollution Control Act or state water quality and sewage sludge and biosolids use or disposal standards.

(f) Regulations requiring the training and the certification of generators and preparers of sewage sludge for the final use or disposal of sewage sludge, when such use or disposal is by land application, surface disposal, disposal in a permitted landfill, or incineration, in accordance with Section 405 of the Federal Water Pollution Control Act or state water quality and sewage sludge and biosolids use or disposal standards.

(4) To develop permitting procedures and to require and issue permits, variances, LPDES variances, licenses, or compliance schedules for all waste water discharges, discharges of waste, or sources of water pollution to the surface waters of the state, and to require of and issue LPDES permits to any person who prepares sewage sludge,



applies sewage sludge to the land, or fires sewage sludge in a sewage sludge incinerator, or to the owner or operator of a sewage sludge surface disposal site and, when the secretary deems it advisable, to delegate the power to issue or deny such permits, variances, LPDES variances, licenses, or compliance schedules to the appropriate assistant secretary subject to his continuing oversight. The authority to execute minor permit actions and to issue registrations, certifications, notices of deficiency, and notification of inclusion under a general permit may be delegated by the secretary or the appropriate assistant secretary to an authorized representative, notwithstanding the provisions of R.S. 30:2050.26. Nothing in this Subsection shall preclude the secretary from issuing compliance schedules or taking enforcement action to address unauthorized pollution of ground waters of the state.

(5) To adopt and promulgate rules and regulations to provide for the cleanup and remediation of any pollution of waters of the state.

(6) To apply for and accept grants of money from the United States Environmental Protection Agency or other federal agencies for the purpose of making funds available to political subdivisions in the state for the planning, design, construction and rehabilitation of wastewater treatment facilities and other related activities.

(7) To establish such standards, guidelines, or criteria by rule as he deems necessary to prevent the discharge from water crafts, other than vessels engaged in commercial fishing and licensed pursuant to R.S. 56:304 et seq., of trash, garbage, and untreated or improperly treated sewage or sewage sludge in an amount, manner, or area which would further degrade the quality of anchorage waters or certain immediately adjacent waters within Louisiana. The standards herein authorized and required shall provide at a minimum for:

(a) Water crafts to which such standards shall apply.

(b) Reporting requirements of water craft owners or operators necessary to effectuate the intent of this Paragraph, including technical information related to onboard waste containment or treatment equipment.

(c) Requirements of evidence of any service contracts or other arrangements necessary to properly remove and dispose of such wastes.

(d) Specific standards for garbage lighterage and pump out services which remove these wastes.



(e) Requirements of evidence that a water craft has emptied its holding tanks outside Louisiana waters.

(8) To adopt and promulgate rules and regulations for the administration of the Municipal Facilities Revolving Loan Fund, provided such rules and regulations shall not take effect unless approved by the House of Representatives Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee.

(9)

(a) To adopt and promulgate regulations necessary to establish and administer a water quality trading program as an inducement to reduce discharges of pollutants into waters of the state. This water quality trading program may include point source and nonpoint source participation. Nonpoint sources may participate in the program through a written agreement between the department and the appropriate governmental entity with jurisdiction over the nonpoint source, or other written agreement with the department. Such regulations shall include, at a minimum, the following:

(i) Criteria under which credits may be certified, generated, quantified, and validated.

(ii) Geographical limitations on the use of credits, where applicable.

(iii) Criteria for the monitoring, certifying, generating, use, banking, term, enforcement, and sale of banked credits.

(iv) The approval of the department for the certifying, generating, use, banking, and sale of banked credits.

(v) Requirements for the maintenance and submission of records concerning monitoring of pollutant levels, credit offset amounts, and banked credits.

(vi) Any other requirements needed to comply with federal and state laws and regulations.

(b) A pilot project may be used to aid in the development of a water quality trading program prior to the adoption of regulations promulgated pursuant to Subparagraph (a) of this Paragraph. Any such project shall be conducted in accordance with the



terms and conditions of an implementation plan approved by the department.

(c) In addition to the review of agency rules provided for in R.S. 49:968, all reports of rules and regulations implementing the provisions of this Paragraph shall also be submitted to the House Committee on Agriculture, Forestry, Aquaculture and Rural Development and the Senate Committee on Agriculture, Forestry, Aquaculture and Rural Development for oversight in accordance with the procedures provided for in R.S. 49:968.

(d) Repealed by Acts 2017, No. 371, §2, eff. June 23, 2017.

(e) Repealed by Acts 2017, No. 371, §2, eff. June 23, 2017.

(10) To develop regulatory permits for certain water discharges provided the following conditions are satisfied:

(a) A regulatory permit cannot be used for any facility which is a new major facility or for any major modification of an existing facility as defined in applicable rules and regulations.

(b) Use of a regulatory permit may be precluded by specific permit conditions contained within a Louisiana pollutant discharge elimination system permit.

(c) A regulatory permit shall not preclude the secretary from exercising all powers and duties as set forth in R.S. 30:2011(D), including but not limited to the authority to conduct inspections and investigations and enter facilities as provided in R.S. 30:2012, and to sample or monitor, for the purposes of assuring compliance with a regulatory permit or as otherwise authorized by this Subtitle, federal Water Pollution Control Act, or regulations adopted thereunder, any substances or pollutants at any location.

(d) A regulatory permit shall require compliance with all applicable provisions of the department's rules and regulations and the federal Water Pollution Control Act. Violation of the terms and conditions of a regulatory permit constitutes a violation of such regulation or Act.

(e) A regulatory permit shall prescribe, as appropriate, discharge limitations, any necessary control requirements, other enforceable conditions, and associated monitoring, record



keeping, and reporting provisions necessary for the protection of public health and the environment.

(f) A regulatory permit shall require any person seeking such permit to submit a written notification and any fee authorized by this Subtitle and applicable regulations to the secretary. Submission of a written notification and any fee authorized by this Subtitle and applicable regulations shall be in lieu of submission of a permit application. The written notification shall be signed and certified in accordance with LAC 33:IX governing permit application submittal. Any person who submits a written notification and any fee authorized by this Subtitle and applicable regulations shall be authorized to operate under the regulatory permit for which the notification was submitted when notified by the department that the notification was complete.

(g) All regulatory permits promulgated by the secretary shall establish notification procedures, permit terms, and confirmation of notification by the department and shall be promulgated in accordance with the procedures provided in R.S. 30:2019.

(h) No later than January 1, 2007, the secretary shall consider which activities are appropriate for coverage under a regulatory permit and publish an initial list of such activities.

(11) To register and license transporters or haulers of sewage sludge and biosolids and transporters or haulers of sewage sludge mixed with grease pumped or removed from a food service facility.

C. The office of the secretary shall, in conjunction and coordination with the Department of Natural Resources, conduct a risk analysis of the discharge of produced waters, excluding cavern leach waters, from oil and gas activities onto the ground and into the surface waters in the coastal wetlands of this state. The analysis shall examine the environmental risks and economic impact of allowing such discharges in the coastal wetlands and the economic impact on the oil and gas industry if such discharges are prohibited. The analysis shall be completed and delivered to the committees on natural resources of the House of Representatives and Senate no later than April 1, 1988.

D.

(1) Any information submitted to the Department of Environmental Quality, pursuant to the Louisiana Water Control Law or regulations promulgated under its authority, may be claimed as confidential in accordance with R.S. 30:2030 by the person submitting the



information, except information which falls within any category listed in Paragraph (7) of this Subsection.

(2) Any such claim must be asserted at the time of submission in the manner prescribed by the application form or instructions or, in the case of other submissions, in accordance with the following:

(a) By stamping the word "CONFIDENTIAL" on each page containing such information.

(b) By submitting a written request for nondisclosure which shall specify the basis for requesting nondisclosure as provided in R.S. 30:2030.

(3) All materials clearly labeled "CONFIDENTIAL" which are submitted to the department with a written request for nondisclosure shall be afforded confidentiality pending a determination whether to grant the request. The determination shall be made within twenty-one working days from the date the request is received by the department.

(4) Confidentiality will not be afforded to any materials submitted which fall within any category of information listed in Paragraph (7) of this Subsection.

(5) If no claim is made at the time of submission, the department may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures specified above.

(6) If the secretary determines that any material received should not be afforded confidentiality, he shall issue a written denial of the request for nondisclosure to the requestor. No written denial of the request is necessary when the material submitted as confidential falls within any category of information listed in Paragraph (7) of this Subsection.

(7) No claim of confidentiality will be accepted and all claims of confidentiality will be denied for the following categories of information for all NPDES, LPDES, or other water discharge permit applicants or permittees:

(a) Name.

(b) Address.

(c) Effluent or discharge data.

(d) Contents of permit applications.



(e) All information required by the permit application whether accompanying it, attached to it, or submitted separately.

(f) Permits.

(8) All information obtained under the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., or by regulations issued under its authority, or by any order, license, or permit term or condition adopted or issued by the Act, shall be available to the public, unless nondisclosure is requested and granted in accordance with R.S. 30:2030. No information listed in said Paragraph (7) may be claimed or determined to be confidential.

(9) Any employee of the department or any former employee of the department or any authorized contractor acting as a representative of the secretary of the department who is convicted of intentional disclosure or conspiracy to disclose trade secrets or other information which has been determined to be confidential pursuant to this Subsection is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars, imprisonment for up to one year, or both.

E. No later than October 1, 1995, the secretary shall adopt rules and regulations to govern the discharge from commercial facilities of liquid wastes that contain methanol alcohol. The rules and regulations shall require pre-treatment of such waste before entering any sewer system, septic tank, or any surface waters of the state. The provisions of this Subsection shall not apply to veterinarians and hospitals. The rules adopted pursuant to this Subsection shall not be applicable to industrial facilities required to obtain permits for discharge of liquid wastes from Louisiana Department of Environmental Quality, the United States Environmental Protection Agency, or the Louisiana Department of Natural Resources.

LA Rev Stat §§ 30:2075. Permits, variances, and licenses.

No person shall conduct any activity which results in the discharge of any substance into the waters of the state without the appropriate permit, variance, or license required under the regulations of the department adopted pursuant to this Chapter.

LA Rev Stat §§ 30:2075.1. Permits and licenses; surcharge.

A. The legislature finds and declares that discharges of substances into the waters of the state have damaged and endangered the Louisiana molluscan shellfish industry and have increased the costs of molluscan regulation and sanitation in the state, and that it is in the best interests of the state to



impose a surcharge on discharges permitted or licensed pursuant to R.S. 30:2075.

B. A surcharge at a flat rate of twenty percent of the department imposed permit fee, with a maximum of one hundred fifty dollars, shall be added to the fee for each water discharge permit issued pursuant to R.S. 30:2075 for discharges in the Atchafalaya, Terrebonne, Barataria, Lake Pontchartrain, and Mississippi River water quality management basins as defined by the department Water Quality Management Basin Plans.

C. The proceeds of the surcharge authorized in Subsection B of this Section shall be deposited into the Oyster Sanitation Fund, established in R.S. 40:5.10.

D. Nothing in this Section shall be construed to modify the rules adopted pursuant to this Subtitle.

LA Admin Code 33:IX-2505. Concentrated Animal Feeding Operations (CAFO).

A. Permit Requirement for CAFOs. Concentrated animal feeding operations (CAFO), as defined in Subsection B of this Section or designated in accordance with Subsection C of this Section, are point sources, subject to LPDES permitting requirements as provided in this Chapter. Once an animal feeding operation is defined as a CAFO for at least one type of animal, the LPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

B. Definitions Applicable to this Section

Animal Feeding Operation (AFO)- a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- a. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and
- b. crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Concentrated Animal Feeding Operation (CAFO)- an AFO that is defined as a Large CAFO or as a Medium CAFO by the terms of this Subsection, or that is designated as a CAFO in accordance with Subsection C of this Section. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of



animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

Land Application Area- land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

Large Concentrated Animal Feeding Operation (Large CAFO)- an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

- a. 700 mature dairy cows, whether milked or dry;
- b. 1,000 veal calves;
- c. 1,000 cattle other than mature dairy cows or veal calves (Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);
- d. 2,500 swine, each weighing 55 pounds or more;
- e. 10,000 swine, each weighing less than 55 pounds;
- f. 500 horses;
- g. 10,000 sheep or lambs;
- h. 55,000 turkeys;
- i. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
- j. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
- k. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
- l. 30,000 ducks, if the AFO uses other than a liquid manure handling system; or
- m. 5,000 ducks, if the AFO uses a liquid manure handling system.

Manure- includes manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal.

Medium Concentrated Animal Feeding Operation (Medium CAFO)- includes any AFO with the type and number of animals that fall within any of the ranges listed in this definition and that has been defined or designated as a CAFO. An AFO is a Medium CAFO if:



a. the type and number of animals that it stables or confines falls within any of the following ranges:

- i. 200 to 699 mature dairy cows, whether milked or dry;
- ii. 300 to 999 veal calves;
- iii. 300 to 999 cattle other than mature dairy cows or veal calves (Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);
- iv. 750 to 2,499 swine, each weighing 55 pounds or more;
- v. 3,000 to 9,999 swine, each weighing less than 55 pounds;
- vi. 150 to 499 horses;
- vii. 3,000 to 9,999 sheep or lambs;
- viii. 16,500 to 54,999 turkeys;
- ix. 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;
- x. 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
- xi. 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;
- xii. 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or
- xiii. 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system; and

b. either one of the following conditions are met:

- i. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or
- ii. pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Process Wastewater- water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or



overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

Production Area- that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of production area are any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities.

Small Concentrated Animal Feeding Operation (Small CAFO)- an AFO that is designated as a CAFO and is not a Medium CAFO.

C. How may an AFO be designated as a CAFO? The appropriate authority (i.e., state administrative authority or regional administrator, or both, as specified in Paragraph C.1 of this Section) may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to waters of the state.

1. Who may designate?

a. Approved States. In states that are approved or authorized by EPA under 40 CFR Part 123, CAFO designations may be made by the state administrative authority. The regional administrator may also designate CAFOs in approved states, but only where the regional administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent state or Indian country water that is impaired for that pollutant.



b. States with No Approved Program. The regional administrator may designate CAFOs in states that do not have an approved program and in Indian country where no entity has expressly demonstrated authority and has been expressly authorized by EPA to implement the NPDES program.

2. In making this designation, the state administrative authority or the regional administrator shall consider the following factors:

- a. the size of the AFO and the amount of wastes reaching waters of the state;
- b. the location of the AFO relative to waters of the state;
- c. the means of conveyance of animal wastes and process wastewaters into waters of the state;
- d. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure, and process wastewaters into waters of the state; and
- e. other relevant factors.

3. No AFO shall be designated under this Subsection unless the state administrative authority or the regional administrator has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. In addition, no AFO with numbers of animals below those established in the definition of Medium CAFO in Subsection B of this Section may be designated as a CAFO unless:

- a. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or
- b. pollutants are discharged directly into waters of the state that originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

D. Who shall seek coverage under an LPDES permit?

1. The owner or operator of a CAFO shall seek coverage under an LPDES permit if the CAFO discharges a regulated wastewater. Specifically, the CAFO owner or operator shall either apply for an individual LPDES permit or submit a notice of intent for coverage under an LPDES general permit. If the state administrative authority has not made



a general permit available to the CAFO, the CAFO owner or operator shall submit an application for an individual permit to the state administrative authority.

2. Information to Submit with Permit Application or Notice of Intent. An application for an individual permit shall include the information specified in LAC 33:IX.2501. A notice of intent for a general permit shall include the information specified in LAC 33:IX.2501 and 2515.

E. Land application discharges from a CAFO are subject to LPDES requirements. The discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of the application of that manure, litter, or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to LPDES permit requirements, except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For purposes of this Subsection, where the manure, litter, or process wastewater has been applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified under LAC 33:IX.2703.E.1.f-i, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO is an agricultural storm water discharge.

1. For unpermitted large CAFOs, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO shall be considered an agricultural storm water discharge only where the manure, litter, or process wastewater has been land applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified in LAC 33:IX.2703.E.1.f-i.

2. Unpermitted large CAFOs must maintain documentation specified in LAC 33:IX.2703.E.1.i either on site or at a nearby office, or otherwise make such documentation readily available to the state administrative authority upon request.

F. By when shall the owner or operator of a CAFO have an NPDES permit if it discharges?

1. A CAFO shall be covered by a permit at the time that it discharges.

G. Reserved.

H. Procedures for CAFOs Seeking Coverage under a General Permit



1. CAFO owners or operators must submit a notice of intent when seeking authorization to discharge under a general permit in accordance with LAC 33:IX.2515.B. The state administrative authority must review notices of intent submitted by CAFO owners or operators to ensure that the notice of intent includes the information required by LAC 33:IX.2501.I.1, including a nutrient management plan that meets the requirements of LAC 33:IX.2703.E and applicable effluent limitations and standards, including those specified in 40 CFR Part 412 . When additional information is necessary to complete the notice of intent or clarify, modify, or supplement previously submitted material, the state administrative authority may request such information from the owner or operator. If the state administrative authority makes a preliminary determination that the notice of intent meets the requirements of LAC 33:IX.2501.I.1 and 2703.E, the state administrative authority must notify the public of the state administrative authority's proposal to grant coverage under the permit to the CAFO and make available for public review and comment the notice of intent submitted by the CAFO, including the CAFO's nutrient management plan, and the draft terms of the nutrient management plan that will be incorporated into the permit. The process for submitting public comments and hearing requests, and the hearing process if a request for a hearing is granted, must follow the procedures applicable to draft permits set forth in LAC 33:IX.3115, 3117, and 3119. The state administrative authority may establish, either by regulation or in the general permit, an appropriate period of time for the public to comment and/or request a hearing that differs from the time period specified in LAC 33:IX.3113. The state administrative authority must respond to significant comments received during the comment period, as provided in LAC 33:IX.3125, and, if necessary, require the CAFO owner or operator to revise the nutrient management plan in order to be granted permit coverage. When the state administrative authority authorizes coverage for the CAFO owner or operator under the general permit, the terms of the nutrient management plan shall become incorporated as terms and conditions of the permit for the CAFO. The state administrative authority shall notify the CAFO owner or operator and inform the public that coverage has been authorized and of the terms of the nutrient management plan incorporated as terms and conditions of the permit applicable to the CAFO.

2. Nothing in this Subsection shall affect the authority of the state administrative authority to require an individual permit under LAC 33:IX.2515.B.3.



LA Admin Code 33:IX-2705. Establishing Permit Conditions.

A. In addition to conditions required in all permits (LAC 33:IX., 2701, and 2703), the state administrative authority shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the CWA and regulations. These shall include conditions under LAC 33:IX.2711 (duration of permits), LAC 33:IX.2713.A (schedules of compliance), LAC 33:IX.2715 (monitoring), LAC 33:IX.2713.B (alternate schedules of compliance) and for EPA permits only 40 CFR 122.49 (considerations under federal law).

B.

1. For a state issued permit, an applicable requirement is a state statutory or regulatory requirement that takes effect prior to final administrative disposition of a permit. For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) that takes effect prior to the issuance of the permit. LAC 33:IX.3121 for the state and 40 CFR 124.14 for EPA (reopening of comment period) provides a means for reopening permit proceedings at the discretion of the state administrative authority when new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For state-administered and EPA-administered programs, an applicable requirement is also any requirement that takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in LAC 33:IX.2903.

2. New or reissued permits, and to the extent allowed under LAC 33:IX.2903 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in LAC 33:IX.2707 and 2709.

C. Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

