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How Will Louisiana's New Executive Branch Lobbying Law Affect Your Interactions with Regulators?

By Valerie Lege' Mayhall

In the course of your day-to-day business activities, do you ever pick up the tab for meals you share with state government employees or officials? If so, you are not alone. Conducting business over lunch and dinner is a common practice in our state, yet a recently-enacted Louisiana law now regulates these activities as "lobbying." During the 2004 Legislative Session, the Louisiana Legislature passed House Bill 1246, which provides for the regulation of executive branch lobbying (Act 116). Although there are similarities between the new law and the existing legislative lobbying registration and disclosure laws, the significant difference between the two laws is that the new executive branch lobbying law applies to all executive branch agencies. Registration as a legislative lobbyist is not a substitute for any required registration as an executive branch lobbyist. Specifically, the new law sets forth registration requirements and requires the reporting of certain expenditures made by lobbyists, and employers and principals of lobbyists, while interacting with executive branch employees. See, La. R.S. 49:71-78. The effective date of the new statute was January 1, 2005. The applicability of the new law is quite broad and has the potential to affect virtually anyone who makes expenditures that benefit state employees

or officials.

The stated purpose of the new executive branch lobbying law is to "preserve and maintain the integrity of executive branch action and state government" through public disclosure of the identity of persons who attempt to influence actions of the executive branch and certain expenditures made by such persons. The term "executive branch agency" is defined broadly to include the state and any state office, department, board, commission (including, but not limited to, the Public Service Commission), institution, or any quasi-public entity created in the executive branch of state government by or pursuant to law. The long arm of the law becomes apparent when one considers how many agencies fall under the umbrella of this regulation.

Anyone who deals with and makes expenditures with regard to executive branch officials (including elected and appointed officials and executive branch agency employees) should evaluate whether the registration and reporting requirements of the new law apply to him. As a primary consideration, one should evaluate whether he, or any of his employees, meets the definition of "lobbyist" contained in the law. The term is defined in the law as "any person who is employed to act in a

representative capacity for the purpose of lobbying if lobbying constitutes one of the duties of such employment, or any person who receives compensation of any kind to act in a representative capacity when one of the functions for which compensation is paid is lobbying and makes expenditures as herein defined of five hundred dollars or more in a calendar year for the purpose of lobbying." (Emphasis added.) The definition of the term is somewhat ambiguous. For instance, it is unclear whether one who is employed to act in a representative capacity for the purpose of lobbying meets the definition if his expenditures associated with lobbying do not meet the five hundred dollar threshold amount. The Louisiana Board of Ethics recently proposed rules that were intended to clarify such uncertainties in the law. These proposed rules may be found in the January 20, 2005 Louisiana Register. See, Vol. 31, No. 1, pages 117-146. These proposed rules seem to indicate that lobbyists need not register under the law until the \$500 expenditure threshold is met. Substantive changes were made to the proposed rules as a result of comments received at a public hearing conducted by the Board of Ethics on February 25, 2005. The revised rules may be reviewed in the April 20, 2005 Louisiana Register. See, Vol.

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31, No. 04, pages 1027-1025.

The law's registration provisions require that each lobbyist register with the Board of Ethics within either five days of employment as a lobbyist or within five days of the first action requiring such registration. Registration forms have been created by the Board of Ethics for use in the registration process. The type of information required on said forms includes the name of lobbyist and his business address, the name and address of the lobbyist's employer, and a recent photograph.

The registration requirements for lobbyists under the new law are somewhat less complicated than the reporting requirements. The lobbyist expenditure reporting forms must be filed semiannually, by August 15th and February 15th. Forms for the reporting of expenditures under the law have also been created by the Board of Ethics. Each report must include detailed information including, but not limited to, the total of all expenditures made during each reporting period. The term "expenditure" is defined in the law as "the gift or payment of money or anything of value when the amount of value exceeds ten dollars for the purchase of food, drink, or refreshment for an executive branch official . . ." There are exceptions to the reporting requirements in the law. For instance, any expenditure for a meal consumed by an executive branch official incidental to the official giving a speech or serving as a member of a panel is exempt from the report-

ing requirements.

In addition to the reporting requirements applicable to expenditures made on behalf of individual state government officials and employees, expenditures made with regard to receptions or other social gatherings, when more than twenty-five executive branch officials are invited, must be reported. This reporting requirement applies whether the function is sponsored by a lobbyist either in whole or part.

There is a provision in the law that allows a principal or employer to register and report as a lobbyist on behalf of his lobbyist employees. Caution must be taken when considering this option, as there are repercussions under the law for late registration and late reporting. These repercussions include a late fee of fifty dollars per day for failure to timely register or report. For registrations or reports filed eleven or more days after the due date, a civil penalty not to exceed ten thousand dollars may be assessed, in addition to the aforementioned late fees. Furthermore, the executive branch lobbying law vests the Board of Ethics with the authority to impose and collect penalties in accordance with certain provisions of the Louisiana Code of Governmental Ethics. In the event of recurring or egregious violations of the Code, the law grants the Board with the authority to censure the violator by prohibiting them from lobbying for thirty days to a year.

Determining how to comply with this new law may be challeng-

ing for employers. Employers should evaluate whether they or any of their employees meet the definition of "lobbyist" under the law. If this inquiry is answered affirmatively, then the issue of expenditures should be addressed. If it is likely that expenditures made in the course of lobbying executive branch officials will exceed five hundred dollars, then registration should be contemplated. Even if there is uncertainty as to whether the five hundred dollar threshold will be met, detailed recordkeeping should be implemented with regard to applicable expenditures. This will ensure that proper reporting may be conducted, should the expenditure threshold be met. Another decision to be made is whether each lobbyist within an organization should register individually, or whether the principal or employer should register on behalf of the organization's lobbyists. If a decision is made to register only the employer or principal, an internal corporate procedure should be created to ensure that each lobbyist timely and accurately provides information regarding expenditures covered under the law to his principal. Finally, the rules drafted by the Board of Ethics with regard to the new executive branch lobbying law have not been finalized. In fact, a public hearing regarding recent substantive changes to the proposed rules is scheduled for May 20, 2005. Once finalized, the rules should be reviewed for any significant changes.

Summary of LDEQ Regulatory Amendments/Additions: January - April 2005

January 2005

RP037

Final Rule

NRC Authorization Cleanup Package (LAC 33:XV.102, 113, 325, 326, 351, 361, 399, 421, 499, 575, 588, 756, 757, 1503, 1505 and 2017)

The final rule amends the Radiation Protection regulations in order to preserve compatibility with the Nuclear Regulatory Commission federal regulations. Under the revised

regulation the period in which to request a hearing for any person aggrieved of a final action or decision is extended from twenty (20) to thirty (30) days after the occurrence of the alleged grievance or decisions. Furthermore, all information currently in Appendix F of Chapter 4, quantities for use with decommissioning is moved to Appendix D of Chapter 3. And, the revised regulations also provide for registration of product information, allowing manufacturers or initial distributors

to request an evaluation and registration of safety information.

SW035

Final Rule (Editor's Note)

Certified Solid Waste Operators (LAC 46:XXIII.107)

Due to an editorial error the final rule published in December 2004 inadvertently deleted some existing definitions from the rule. The editor's note clarifies the existing definitions which were not amended in the rule.

February 2005

WQ057

Final Rule

Cooling Water Intake Structures at Existing Phase II Facilities (LAC 33:IX.2501, 2707, 3113, 4701, 4703, 4705, 4707, 4709, 4719, 4731, 4733, 4735, 4737, 4739, 4741, 4743, 4745, 4747, 5911 and 7103)

In response to federal regulatory changes in 69 FR 131, 41682-41693 (July 9, 2004) the LDEQ is finalizing this fast-track rule amendment incorporating EPA's Phase II of Section 316(b) of the Clean Water Act. The amendments establish requirements and procedures for implementing those requirements, according to the location, design capacity and construction of cooling water intake structures located at existing power producing facilities.

March 2005

AQ247

Final Rule

Transportation Conformity Incorporation by Reference (LAC 33:III.1432)

In response to regulatory changes made to the federal transportation conformity rule 40 CFR 93, Louisiana is incorporating the amended federal rules into the state regula-

tions. The amendments address conformity criteria and procedures for the new 8-hour ozone and fire particulate mater (PM2.5) National Ambient Air Quality Standards (NAAQS). The amended federal rules were published in 69 FR 40004-40081 (July 1, 2004) and 69 FR 413325-4337 (July 20, 2004).

April 2005

WQ059

Final Rule

Designated uses and criteria for Cypress Island Coulee Wetland (LAC 33:IX.1123)

Based on a use attainability analysis (UAA) conducted by LDEQ, the final rule establishes Cypress Island Coulee Wetland as subsegment 060806. The designation of a subsequent identifier will allow LDEQ to establish site-specific criteria and designated uses for the Cypress Island Coulee Wetland in the water quality standards.

WQ058

Final Rule

Numerical Criterion of Sulfates for Bayou Anacoco Subsegment 110507 (LAC 33:IX.1123)

LDEQ conducted a use attainability analysis (UAA) on Bayou Anacoco subsegment 110507 to determine the uses and criteria the waterbody can

attain. Based on the information gathered in the UAA, increasing the sulfate numerical criterion from 200 to 300 ug/L will maintain and protect the designated uses of primary or secondary contact recreation and propagation of fish and wildlife for Bayou Anacoco.

OS062

Final Rule

Incorporation by Reference (LAC 33:I.3931; V.3099; IX.2301, 4901 and 4903; and XV.1517)

This final rule incorporates federal regulations found in 10 CFR 71, Appendix A (1/1/2004) – Packaging and Transportation of Radioactive Material; 40 CFR parts 117.3 – Determination of Reportable Quantities Hazardous Substances, 136 – Guidelines Establishing Test Procedures for the Analysis of Pollutants, 233 – Appendices I – IX and XI – XIII – Standards for the Management of Specific Hazardous Wastes and Hazardous Waste Management Facilities, 302.4 – Designation of Hazardous Substances, 401 – Effluent Guidelines and Standards, 405-471 (7/1/2004) – Regulations for Existing and New Sources of Pollution; 429.11(C) in 69 FR 46045 (7/30/2004) – Timber Products Processing Point Source category; 432 in 69 FR 54541 – 54555 (9/8/2004) Meat Products Point Sources category; and 451 in 69 FR 51927 – 51930 (8/23/2004).

Inside the Office of Conservation: Recent Developments

By W. Stephen Walker

The Office of Conservation, Department of Natural Resources continues to adapt to changes in the laws and new technical innovations within the industries it regulates. This article is to provide a brief highlight of the statutory and regulatory changes for 2004 which may be of interest to practitioners in the field.

Statutory Changes:

A. Act 104-This Act clarifies that leases for state lands for the purpose of natural gas storage includes manmade storage spaces, such as salt dome caverns, in addition to natural underground reservoirs.

B. Act 220-Repealed the requirement that the Office of Conservation compile an Oil & Gas Regulatory Index of rules and regulations of various state agencies. This Index has be-

come obsolete with the emergence of computer databases within state offices that are easily accessible by industry and the public.

C. Act 222 and Act 223-Provides for annual fees for hazardous liquids pipelines and gas pipelines, respectively, not to exceed \$22.40 per mile(or \$400.00 per pipeline facility, whichever is greater) with the Commissioner to review and revise fees annually in accordance with the Administrative Procedures Act.

D. Act 224-Revises the definition of "master meter system" and added the definitions of "school system" and "special class system" for specific types of master meter systems to clarify the jurisdiction of the Office of Conservation over these systems for the purpose of pipeline safety. Most types of master meter systems involve a pipeline system that purchases gas from another entity(usually a local distribution system) and provides that gas to another, either through an individual meter or it can be a service included as part of the rent of a property. The classic example is a mobile home park or apartment complex where the owner buys the gas and then distributes it to individual tenants for their consumption.

The definition of "master meter system" in LSA-R.S. 30:503(12) was clarified to include "postsecondary education institution"(which was always considered included) under the jurisdiction of the Office of Conservation.

The definition of "school system" was added as LSA-R.S. 30:503(13) and provides that public or private pre-kindergarden, elementary or secondary schools shall be a "special class system" unless the school requests a revision to its service from the local distribution company. It further provides that schools that obtain such a revision of service shall only be required to maintain that part of the system from the outlet of the meter in accordance with the requirements of the state fire marshal. The local distribution company would be responsible to comply with the rules and regulations regarding pipeline safety from its system to the outlet of the meter. If these schools do not request a revision of service, then they will continue to be a jurisdictional system.

The definition of "special class system" was added as LSA-R.S. 30:503(14) and includes facilities operated by a federal, state or local government or a private facility performing a function of government(such as a private prison).

E. Act 225-Revises the procedures for recovery of costs expended to restore orphaned oilfield sites. Prior law made a distinction between sites transferred prior to and subsequent to May 1, 1993. Act 225 removes the distinction and provides that for any site for which restoration costs exceeds \$250,000 the secretary of the Department of Natural Resources may seek recovery of these costs from the responsible parties in inverse chronological order from the date the site is declared orphaned.

F. Act 412-Increased the fees collected under the Louisiana Oilfield Site Restoration Law from one cent per barrel on oil and condensate to one and one-half cents per barrel, and increased the fees on gas from one-fifth of one cent per thousand feet of gas to three-tenths cents. Act 412 further repealed the provisions related to annual fee increases.

G. Act 768-Authorizes an increase in the administrative expenses to administer the oilfield site restoration program from \$500,000 per year to \$750,000 per year to cover the increased costs of additional staff and expenses of the program. This Act also eliminated a few redundant provisions to the law.

H. Act 892-Adds a new section to Title 30 as LSA-R.S. 30:5.2 and authorizes the Commissioner of Conservation to establish units for coal seam natural gas producing areas and to adopt rules and regulations to administer these exploration activities. The provisions essentially tract the Commissioner's authority to create other types of units and will utilize the existing expertise of the Office of Conservation staff.

This Act requires notice and a public hearing before a unit is established and authorizes force pooling of the separate property interests. The Act requires that in order to establish a unit for coal seam natural gas the Commissioner must make three(3) findings: (1)That the order is necessary for the development of a coal seam natural gas producing

area and will prevent waste and the drilling of unnecessary wells; (2) That the unit is economically feasible; and (3) That sufficient evidence exists to reasonably establish the limits of the productive area. Any order issued by the Commissioner shall provide for a an initial allocation of unit production on a surface-acre basis.

The Act provides expressly provides that interested parties shall have a reasonable opportunity to review the data submitted to the Commissioner by the applicant to establish the limits of the productive area.

Act 892 also provides for the designation of a unit operator for the proposed unit. Well costs, including the authority of the Commissioner to determine well costs in the event of a dispute, are also addressed in a similar fashion to the traditional oil and gas exploration and production units.

Finally, Act 892 authorizes the Commissioner to revise or dissolve any unit created pursuant to this Act. If a unit is modified, such order is to allocate the unit production on a "just an equitable basis".

Regulation Changes:

Pursuant to the statutory changes made to LSA-R.S. 30:9.1 by Act 505 of 2003, Statewide Order 29-L-3(LAC 43:XIX.3101 et seq.) was issued in 2004. The primary change was the addition of LAC 43:XIX.3105(B) which established procedures to terminate existing units based on three(3) factors: (1) The lapse of five(5) years without any production from the subject unit or units; and (2) There is no well within the unit capable of producing from the pool; and (3)One(1) year and ninety(90) days has elapsed without any work being done on a well in the unit to reestablish production from the pool.

With the passage of Act 49 of 2003, the regulations related to Ground Water Resources Management(LAC 43:VI.Chapters 1-7) were updated to reflect that much of the authority

that was vested in the prior Ground Water Commission has been transferred to the Commissioner of Conservation. Among the changes of note are the requirements that water well drillers provide certain information on a Water Well Notification Form (available on the Office of Conservation website) and appeal

rights related to requests from information by the Commissioner of Conservation to the Ground Water Resources Commission.

The last change to the regulations was the addition of provisions related to the injection of produced water in LAC 43:XIX.303. In the event that produced water is to be

injected into a productive underground formation where the production mechanism is water drive, the Commissioner may now consider applications and issue approvals administratively, provided the proper information is submitted pursuant to the regulation.

Recent Developments in Administrative Law

Supreme Court Addresses Constitutionality of Division of Administrative Law

The Louisiana Supreme Court recently upheld the constitutionality of the Division of Administrative Law Act reversing a decision out of the Nineteenth Judicial District which had found the Act encroached upon the powers of state courts.

The case began when the Louisiana Insurance Commissioner disapproved an insurance form for use in Louisiana concluding that the form failed to comply with state law. The insurer requested an adjudicatory hearing before an administrative law judge ("ALJ"). The ALJ disagreed with the Commissioner and ordered the Department of Insurance to approve the form.

The Commissioner filed a petition for review of the ALJ's decision with the Nineteenth Judicial District. That petition was dismissed on an exception of no right of action based upon provisions of the Act barring an administrative agency from obtaining judicial review of an ALJ's decisions or orders.

Thereafter, the Commissioner filed a second petition this time seeking among other relief, a declaratory judgment that La. R.S. 49:992(B)(2) which precludes an administrative agency from obtaining judicial review of an adverse ALJ decision, and La. R.S. 49:992(B)(3) and 964(A)(2) which deprive agencies the authority to override such adverse decisions, were unconstitutional. (J. Robert Wooley v. State Farm Fire and Casualty Insurance Company, et al., Docket No.

502,311)

The District Court ruled the aforementioned provisions unconstitutional, finding they violated La. Const. art. 2 regarding separation of powers and art. 5, Section 16 vesting original jurisdiction in District Courts among others.

The Louisiana Supreme Court reversed the lower court's ruling in its entirety. (J. Robert Wooley v. State Farm Fire and Casualty Insurance Company, et al. 893 So.2d 746 (La. 2005)) First, the Supreme Court found that the provisions did not contravene the separation of powers doctrine. The Court concluded that in rendering its decision, the ALJ was exercising a quasi-judicial function rather than a strictly judicial function, noting that a determination concerning whether an insurance form complies with applicable requirements of the Insurance Code has traditionally been vested in the executive branch. The Court further noted that although ALJs wear robes and are referred to as Judges, they do not exercise the judicial power of the state - they make only administrative rulings that, "are not subject to enforcement and do not have the force of law."

Second, the Court found that the provisions did not divest district courts of their original jurisdiction over civil matters. The approval of insurance policy forms is not a civil matter within the meaning of La. Const. art. 5 Section 16 - the Court noting that, "the approval of insurance policy forms did not exist as a traditional judicial civil matter in 1974 and the record contains no evidence that such determinations were

ever delegated in the first instance to the judicial branch."

Finally, the Court found that the right of access to the court's afforded a "person" under La. Const. Art. 1 section 22 did not apply to the Commissioner of Insurance as he was a creature of the State and not a "person" within the meaning of that constitutional provision.

Proposed Amendment Addresses Agency Compliance with ALJ Rulings

House Bill No. 208 to be sponsored by State Representative Bowler in the current session, proposes to amend La. R.S. 49:992(B)(2) by providing that, "Upon issuance of such a final decision or order the agency or any official thereof shall take whatever actions are necessary to comply fully and in a timely manner with the final order or decision of the administrative law judge."

Louisiana General Storm Water Permitting Program: Industrial and Construction Activities

By Gerald Brouilletter, PE & Code Bourque of Shaw Environmental & Infrastructure

Frequently, facilities subject to only a small subset of environmental regulations are applicable to the Louisiana Pollution Discharge Elimination System (LPDES) storm water multi-sector general permit program (MSGP). These facilities generally do not have the environmental compliance resources available to facilities with more complex multimedia environmental issues. The LPDES Program permits storm water through site-specific permits (generally for larger more complex facilities) and general permits. The LPDES storm water MSGP has conditions requiring applicability analysis, monitoring, inspections, training, etc. which may be complex for some facilities.

Determining LPDES storm water MSGP applicability is the first step for facilities to ensure compliance with the LDEQ regulations. Applicable facilities fall into one of three main areas: 1) Municipalities; 2) Thirty industrial sectors (designated by SIC code) that fall into one or more of eleven categories; and 3) Construction activity disturbing between one or more acres of land.

The following summary provides the conditions associated with the LPDES MSGP for industrial activity and construction activities.

LPDES Multi-Sector General Permit (MSGP)

Permit NO. LAR050000

The MSGP authorizes discharges of storm water from facilities in the "sectors" of industrial activity based on SIC codes and Industrial Activity Codes. The current MSGP became effective on May 1, 2001 and will expire five years from that effective date. A new MSGP shall be issued by the LDEQ every five years thereafter. All requirements, including monitoring, reporting, submittal dates, etc., are prescribed per the MSGP for the industrial sector as a whole and not per the individual facility/site. Applicable facilities are required to submit a Notice of Intent (NOI) for coverage under the LPDES

LPDES Industrial Activity Storm Water MSGP LAR050000			
Requirement	Frequency/ Important Dates	Reporting/ Recordkeeping	Notes
Storm Water Pollution Prevention Plan (SWPPP)	Prepare prior to submittal of the Notice of Intent (NOI). Revise within 14 days of release/ unauthorized discharge, facility change which has a significant impact on discharge, and when it is determined SWPPP is ineffective.	Plan must be kept onsite for 3 years after coverage under MSGP.	Required elements are prescribed in the MSGP. Includes BMP's, spill prevention procedures, inspections, training, etc.
Notice of Intent (NOI)	MSGP is effective 2 days after postmark of NOI.		NOI acts as the mechanism to apply for coverage under the MSGP
Visual Inspections	Quarterly: 1/1 - 3/31 4/1 - 6/30 7/1 - 9/30 10/1 - 12/31	Observations to be recorded with SWPPP. Records retained for 3 years from inspection. No reporting necessary unless requested.	Inspection criteria are listed in MSGP. If facility-specific permit coverage is less than one month from end of quarterly/annual period - start with next period.

LPDES Industrial Activity Storm Water MSGP LAR050000			
Requirement	Frequency/ Important Dates	Reporting/ Recordkeeping	Notes
Monitoring	Benchmark Monitoring Quarterly during: Year 2: 5/1/02 - 4/30/03 Year 4: 5/1/04 - 4/30/05	Year 2 - Report by 1/28/04 Year 4 - Report by 1/28/06 Records retained for 3 years from sampling/ monitoring.	Benchmark monitoring requirement and criteria are based upon sector. Waivers may be obtained per MSGP. Additional monitoring may be required per sector.
Compliance Evaluation	Annually	Annual evaluation documentation must be kept with SWPPP.	Required evaluation and documentation elements are listed in MSGP.
Training	Periodic dates (e.g., semi-annually)	Training records to be kept with SWPPP.	Employees that work in areas where material/ activities are exposed to storm water.
Noncompliance/ Unauthorized Discharge		Verbal report within one hour of discharge. Notification to LDEQ within 24 hours. Written report within five days of discharge	24-hour hotline: 225-925-6595
Termination	30days after owner/ operator change and operations ceased (no discharge).	N/A	Must continue to comply until NOT submittal
<i>Note: If the MSGP is not replaced prior to the expiration date, it will be administratively continued.</i>			

storm water multi-sector general permit. Beyond the NOI, the general permit requirements are dependent upon the category of facility. A summary of the MSGP permit and associated activities is provided below.

**Storm Water General Permit for Construction Activities Five Acres or More
Permit NO. LAR100000**

This general storm water permit authorizes discharges of storm water from construction activities, and support activities meeting certain requirements, that disturb five acres or more of total land. Permit

coverage is required from the "commencement of construction activities" until "final stabilization". Construction activities are defined as land-disturbing activities including, but not limited to: clearing; grading; excavating activities; and/or fill material. Examples of construction activities include: road and pipeline building, construction (residential houses, office buildings, or industrial buildings), demolition accompanied by land disturbance, and runways. For oil/gas exploration and production activities, the permit is applicable to the installation of access roads, pipelines and well pads. The clearing of land solely for agri-

cultural purposes is not a regulated activity and is exempt from LPDES permitting requirements.

The current permit became effective on October 1, 2004 and shall expire five years from that effective date. A new general construction permit shall be issued by the LDEQ every five years thereafter. Some requirements of the current general permit include: development of a SWPPP, Notice of Intent (NOI) submittal, monitoring and associated DMRs, and Notice of Termination (NOT) thirty days after either: final stabilization; new operator/permittee assumes control; or, for residential

homes, temporary stabilization has been completed and the residence has been transferred to the homeowner.

**Storm Water General Permit for Small Construction Activities
Permit NO. LAR200000**

This general permit authorizes discharges of storm water from construction activities, and support activities meeting certain requirements, that disturb one or more acres but less than five acres of total land. Examples of construction activities include: road and pipeline building, construction (residential houses, office buildings, or industrial buildings), and runways. For oil/gas exploration and production activities, the LDEQ, as issuing authority of the NPDES program for Louisiana, issued an emergency rule effective March 10, 2005 reflecting the March 9, 2005 EPA proposed action to postpone until June 12, 2006, the re-

quirement for oil and gas construction activity that disturbs one to five acres of land to obtain NPDES storm water permit authorization. The clearing of land solely for agricultural purposes is not a regulated activity and is exempt from LPDES permitting requirements. Discharges related to the operation of concrete or asphalt batch plants located at the construction site are not authorized under this permit; coverage for such discharges must be obtained under an alternative LPDES permit.

The current permit became effective on March 10, 2003 and shall expire five years from that effective date. A new general construction permit shall be issued by the LDEQ every five years thereafter. Some items of note of the current general permit include automatic coverage (projects initiated after the effective date are automatically covered), no LDEQ fee will be assessed for coverage under the permit, NOI is not required,

SWPPP must be developed and implemented upon commencement of construction activities, monitoring is not required, and reporting of facility changes or anticipated non-compliance. Additionally, a completion report form shall be submitted following the completion of the project and site stabilization to the LDEQ Permits Division by January 28th of the year following the calendar year in which the project was completed. A copy of the completed form shall also be submitted to the appropriate LDEQ regional office by the same date.



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