DEPARTMENT OF ENVIRONMENTAL QUALITY

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GOVERNOR

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SECRETARY

SEP 1 9 2007

GENERAL PERMIT NUMBER: LAR200000
AI 92973
PER20070001

DISCHARGE CATEGORY: STORM WATER DISCHARGES FROM SMALL CONSTRUCTION ACTIVITIES

TO: ALL INTERESTED PARTIES

Subject: Draft General Permit for Storm Water Discharges from Small Construction Activities

The Department of Environmental Quality (DEQ) proposes to reissue Louisiana Pollutant Discharge Elimination System General Permit Number LAR200000. A copy of the proposed DRAFT general permit is attached for your information. The Department is currently soliciting comments on this draft permit.

This Office will publish a public notice announcing the proposal to reissue this general permit one time in the official state journal, THE ADVOCATE of Baton Rouge, and one time each in the following local papers throughout the state: THE TIMES of Shreveport, THE AMERICAN PRESS of Lake Charles, THE TIMES PICAYUNE of New Orleans, THE NEWS-STAR of Monroe, THE TOWN TALK of Alexandria, THE ADVERTISER of Lafayette, and THE COURIER of Houma. The public notice will be published on the LDEQ Permits Public Web Page at http://www3.deq.louisiana.gov/news/pubnotice/default.asp and a public notice will also be mailed to all persons on the Office of Environmental Services mailing list. Upon publication of the public notice in these newspapers a 30-day public comment period shall begin. All interested persons are invited to submit written comments to this Office or request a public hearing relative to the issuance of the permit within this 30-day comment period.

Additional precautions will be taken to assure that people who live in the parishes most severely impacted by recent hurricanes receive notice of the draft permit. The following additional public notice procedures will apply to public notice of the draft permit in Orleans and St. Bernard parishes:

ENVIRONMENTAL **SERVICES**
: PO BOX 4313, BATON ROUGE, LA 70821-4313
P:225-219-3181 F:225-219-3309
WWW.DEQ.LOUISIANA.GOV

The public notice will also be published in an additional newspaper in a parish that physically adjoins Orleans parish and a parish that physically adjoins St. Bernard parish. This additional public notice will be published in the newspaper with the largest circulation in the adjoining parish.

Coverage under this general permit shall be limited to discharges of storm water from ground disturbance equal to or greater than one acre and less than five acres, including smaller areas that are part of a larger common plan of development that cumulatively disturb at least one acre, and those construction site discharges designated by the State Administrative Authority (LDEQ) as needing a storm water permit under LAC 33:IX.2511.A.1.e and A.9.a, except for discharges identified under Parts I.A.3 and 4 of the permit.

Please note that this is a DRAFT permit only and as such does not grant any authorization to discharge. Authorization to discharge will be granted by the issuance of this general permit and only after all requirements described therein are satisfied.

Discharges which meet the eligibility requirements of Part I.A are automatically regulated under the permit without submitting a notice of intent, in accordance with LAC 33:IX.2515.B.2.e, and all conditions and requirements of the permit are applicable to these discharges. If the LDEQ determines that coverage under the permit is inappropriate, submittal of an application for an individual LPDES permit may be required.

No annual maintenance and surveillance fee will be assessed for coverage under the permit.

Should you have any questions concerning any part of the general permit, public notice requirements or procedures, please contact Ms. Linda Gauthier, Water Permits Division, at the address on page one of this letter, by telephone at (225) 219-0801, or by e-mail at linda.gauthier@la.gov.

Sincerely,

Tom Killeen

Tom Killeen, Environmental Scientist Manager
Municipal and General Water Permits Section

lg

Enclosures: Draft Permit, Fact Sheet, NOI form

c: IO-W

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State Historic Preservation Officer
Department of Culture, Recreation & Tourism
Office of Cultural Development/Division of Archaeology

DRAFT

DEQ
LOUISIANA

STORM WATER GENERAL PERMIT FOR

SMALL CONSTRUCTION ACTIVITIES

MASTER PERMIT NO. LAR200000
AUTHORIZATION TO DISCHARGE UNDER THE
LOUISIANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to the Clean Water Act, as amended (33 U.S.C. 1251 et seq.), and the Louisiana Environmental Quality Act, as amended (La. R. S. 30:2001 et seq.), rules and regulations effective or promulgated under the authority of said Acts, this Louisiana Pollutant Discharge Elimination System (LPDES) General Permit is issued. This permit authorizes the discharge of storm water from small construction activities (greater than one acre but less than five acres) to waters of the State, in accordance with the conditions and requirements set forth herein.

This permit shall become effective on

This permit and the authorization to discharge shall expire five years from the effective date of the permit.

Issued on

DRAFT

(Not for Signature)

Chuck Carr Brown, Ph. D.
Assistant Secretary

GALVEZ BUILDING • 602 N. FIFTH STREET • P.O. BOX 4313 • BATON ROUGE, LA 70821-4313 • PHONE (225) 219-3181

DRAFT

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Part I. COVERAGE UNDER THIS PERMIT

A. Applicability.

1. This permit authorizes discharges of storm water from construction activities as defined in LAC 33:IX.2511.B.15 (ground disturbance equal to or greater than one acre and less than five acres, including smaller areas that are part of a larger common plan of development that cumulatively disturb at least one acre) and those construction site discharges designated by the State Administrative Authority (LDEQ) as needing a storm water permit under LAC 33:IX.2511.A.1.e and A.9.a, except for discharges identified under Parts I.A.3 and 4 of the permit.

Construction activities regulated under this permit include clearing, grading,and excavation operations. Road and pipeline building, construction of residential houses, office buildings, industrial buildings, and runways are examples of construction activities.

The **clearing of land solely for agricultural purposes is NOT a regulated activity** so it is exempted from Louisiana Pollutant Discharge Elimination System (LPDES) permitting requirements. Projects on cultivated croplands are not regulated, as these are already "disturbed" areas.

Construction activities related to oil and gas exploration, production, processing, or treatment, or transmission activities are exempt from regulation. Section 323 of the Energy Policy Act of 2005 modified paragraph (24) of Section 502 of the Clean Water Act (CWA) to define the term "oil and gas exploration, production, processing, or treatment, or transmission facilities." This term is used in CWA Section 402(1)(2) to identify oil and gas activities for which the Environmental Protection Agency (EPA) shall not require National Pollutant Discharge Elimination System (NPDES) permit coverage for certain storm water discharges. The effect of this statutory change is to make construction activities at oil and gas sites eligible for the exemption established by CWA Section 402(1)(2). The exemption from obtaining LPDES permit coverage for storm water discharges from construction activities at these oil and gas sites is codified in the Environmental Regulatory Code at LAC 33:IX.2511.A.2. All construction activities are exempt, regardless of the amount of disturbed acreage, which are necessary to prepare a site for drilling and the movement and placement of drilling equipment, constructing access roads, drilling waste management pits, in field treatment plants and the transportation infrastructure (e.g., crude oil and natural gas pipelines, natural gas treatment plants and both natural gas transmission pipeline compressor and oil pumping stations) necessary for the operation of most producing oil and gas fields.

Repaving of roads and reworking of utility lines or pipelines are not regulated under this permit unless one or more acres of underlying and/or surrounding soil are cleared, graded or excavated as part of the operation. **A small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or**

original purpose of the facility/structure. If a construction activity involves the disturbance of less than five acres of land and is only performed to maintain its original purpose, then LPDES permit coverage under this general permit is not required to discharge storm water from that construction activity. Such activities include replacing structures that are due for and require maintenance. In order to qualify as a routine maintenance activity, the land disturbance should not go beyond the footprint of the previous structure. Examples of routine maintenance activities include the following.

Berm Repair or Topsoil Replacement Along Shoulders - placing berm material or topsoil on shoulders adjacent to pavement to eliminate drop-offs;
Bridge Abutment Repairs, Deck Overlays, and Deck Replacement;
Bridge Replacement without widening;
Chip Sealing – placing asphalt or polymer binder and stone on existing roads;
Culvert Replacement/Repair/Lining – replacing/repairing/relining a culvert with the same line, grade, and hydraulic capacity and within US Army Corps of Engineers Nationwide Permit (NWP) #3 parameters;
Curb Repairs – repairing existing curbing along a roadway;
Ditch Cleanout – maintaining or restoring original flow line and cross-section only;
Fence Repair/Replacement;
Full Depth Pavement Repairs – isolated repairs of pavement build-up down to sub-grade;
Guardrail Installation/Replacement – installing or repairing with minor grading work to create proper grade for end assemblies;
Lighting Maintenance;
Linear Grading – reshaping of graded shoulders to establish proper drainage away from pavement;
Loop Detector Repairs – repairing loop detectors in existing pavement;
Noise Wall Repair;
Partial Depth Pavement Repairs – isolated repairs of surface courses of pavement;
Pothole Filling;
Resurfacing – replacing several inches of asphalt wearing course by milling existing surface and replacing with new material;
Road Re-paving with new asphalt provided the activity does not expose soil to storm water;
Road Replacement without adding any lanes;
Sign Repair/Maintenance – installing or repairing traffic signs and poles/posts;
Signal Installation/Maintenance – installing or repairing traffic signals and poles/posts; and
Tree/Brush Removal – when it is considered a road maintenance activity.

Any discharge authorized by a different LPDES permit may be commingled with discharges authorized by this permit. Any permittee covered by an individual permit may request that the individual permit be terminated if the permitted source or activity is also eligible for coverage under

this general permit. Upon approval by this Office, the individual permit will be terminated and the permittee will be covered by this general permit.

No permit fees will be assessed by LDEQ for coverage under the permit.

Assistance/additional information about the permit may be obtained by contacting the Water Permits Division, Municipal and General Water Permits Section, at (225) 219-3181, or at the address in Part I.C below.

2. This permit also authorizes discharges from support activities related to a construction site (e.g., equipment staging yards, material storage areas, excavated material disposal areas, borrow areas, etc.) from which there otherwise is a storm water discharge from a construction activity provided:

a. the support activity is directly related to a construction site that is required to have LPDES permit coverage for discharges of storm water associated with construction activity;

b. the support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and

c. appropriate controls and measures are identified in the storm water pollution prevention plan for the discharges from the support activity areas.

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, if present, must be obtained under an alternative LPDES permit.

3. **Limitations on Coverage.** The following storm water discharges from construction sites are not authorized by this permit:

a. Post Construction Discharges. Storm water discharges that originate from the site after construction activities have been completed, and the site, including any temporary support activity site, has undergone final stabilization. Industrial post-construction storm water discharges may need to be covered by a separate LPDES permit.

b. Discharges Mixed with Non-storm Water. Discharges that are mixed with sources of non-storm water other than discharges which are identified in Parts II.A.2 and 3 of this permit and which are in compliance with Parts II.A.2 and 3 (non-storm water discharges) of this permit. Any discharge authorized by a different LPDES permit may be commingled with discharges authorized by this permit.

c. Discharges Covered by Another Permit. Storm water discharges associated with construction activity that have been issued an individual permit or required to obtain coverage under an alternative general permit in accordance with Part V.K. (Requiring an Individual Permit or Alternative General Permit). As provided in Part I.A.1 above, any permittee covered by an individual permit may request that the individual permit be terminated if the permitted source or activity is also eligible for coverage under this general permit. Upon written approval of that request by this Office, the individual permit will be terminated and the permittee will be covered by this general permit.

d. Discharges Threatening Water Quality. Storm water discharges from construction sites that LDEQ determines will cause, or have the reasonable potential to cause or contribute to, violations of water quality standards. (Where such determinations have been made, the discharger will be notified by LDEQ that an individual permit application is necessary.) However, LDEQ may authorize coverage under this permit after appropriate controls and implementation procedures designed to bring the discharges into compliance with water quality standards have been included in the storm water pollution prevention plan.

e. Discharges That Are Not Protective of Endangered and Threatened Species.

(1) A discharge of storm water associated with construction activity is covered under this permit only if the operator meets at least one of the following criteria. Failure to continue to meet one of these criteria during the term of the permit will result in the storm water discharges associated with construction being ineligible for coverage under this permit.

(a) The storm water discharge(s), and the construction and implementation of Best Management Practices (BMPs) to control storm water runoff, are not likely to adversely affect species identified in Addendum A of this permit or critical habitat for a listed species; or

(b) The operator's activity has received previous authorization under Section 7 or Section 10 of the Endangered Species Act (ESA) and that authorization addressed storm water discharges and/or BMPs to control storm water runoff (e.g., developer included impact of entire project in consultation over a wetlands dredge and fill permit under Section 7 of the Endangered Species Act); or

(c) The operator's activity was considered as part of a larger, more comprehensive assessment of impacts on endangered and threatened species under Section 7 or Section 10 of the Endangered Species Act which accounts for storm water discharges and BMPs to control storm water runoff (e.g., where an area-wide habitat conservation plan and Section

10 permit is issued which addresses impacts from construction activities including those from storm water, or a National Environmental Policy Act (NEPA) review is conducted which incorporates ESA Section 7 procedures); or

(d) The operator's activity was considered as part of a larger, more comprehensive site-specific assessment of impacts on endangered and threatened species by the owner or other operator of the site.

(2) All operators must follow the procedures provided in Addendum A of this permit when determining eligibility to operate under the permit.

(3) The operator must comply with any terms and conditions imposed under the eligibility requirements of paragraphs (1)(a), (b), (c), or (d) above to ensure that storm water discharges or BMPs to control storm water runoff are protective of listed endangered and threatened species and/or critical habitat. Such terms and conditions must be incorporated in the operator's storm water pollution prevention plan.

(4) This permit does not authorize any "take" (as defined under Section 9 of the Endangered Species Act) of endangered or threatened species unless such take is authorized under Section 7 or 10 the Endangered Species Act.

(5) This permit does not authorize any storm water discharges or require any BMPs to control storm water runoff that are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the Endangered Species Act or result in the adverse modification or destruction of habitat that is designated as critical under the Endangered Species Act.

f. Discharges Adversely Affecting Properties Eligible for Protection Under the National Historic Preservation Act. Eligibility for coverage under this permit is contingent upon compliance with the National Historic Preservation Act (NHPA). Discharges are authorized under this permit only if:

(1) the facility's storm water discharges, allowable non-storm water discharges, and discharge-related activities do not affect a property that is listed or is eligible for listing on the National Register of Historic Places as maintained by the Secretary of the Interior; or

(2) if historical properties are identified and it is determined there is the potential to adversely affect the property, the facility has obtained and is in compliance with a written agreement with the Louisiana State Historic Preservation Officer (SHPO) that outlines all measures to be undertaken to mitigate or prevent adverse effect(s) to the historic property.

Addendum C of this permit provides guidance and references to assist operators with determining permit eligibility concerning this provision.

g. Discharges Not in Compliance with State Water Quality Standards/TMDL Requirements

Covered dischargers shall not cause or contribute to a violation of a state water quality standard. New or proposed dischargers must evaluate eligibility by determining compliance with this provision prior to assuming authorization by the permit.

The discharge of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been either established or approved by LDEQ is not authorized unless the discharge is consistent with that TMDL. During determination of eligibility for coverage under the permit, **new dischargers** (see LAC 33:IX.2313) to a 303(d) waterbody must determine that their proposed discharges will be in compliance with LAC 33:IX.2317.A.9. In essence, a new discharger is one initiated after August 13, 1979, and not previously permitted. Any discharger (**both existing and new**) to a waterbody for which there is an approved TMDL must confirm that the TMDL allocated a portion of the load for storm water point source discharges if the proposed discharges will contain the pollutant(s) for which the waterbody is impaired or the TMDL developed. Such discharges are expected to be rare for the wastewater types covered by the reissuance permit because the required control/prevention measures are designed to prevent the release of these pollutants in storm water.

In a situation where an LDEQ-approved or established TMDL has specified a general wasteload allocation applicable to construction storm water discharges, but no specific requirements for construction sites have been identified in the TMDL, the operator should consult with LDEQ to confirm that adherence to a SWPPP that meets the requirements of this permit will be consistent with the approved TMDL. The SWPPP must clearly state which BMPs were selected for the site and describe how the design and implementation of the selected BMPs are expected to ensure that storm water discharges from the construction site are in compliance with the established TMDL. If the LDEQ-approved or established TMDL specifically precludes such discharges, the operator is not eligible for coverage under this permit.

Where an LDEQ-approved or established TMDL has not specified a wasteload allocation applicable to construction storm water discharges, but has not specifically excluded these discharges, adherence to a SWPPP that meets the requirements of this permit will be assumed to be consistent with the approved TMDL.

Broadly stated, new or existing discharges of a particular pollutant are prohibited where there is a TMDL unless the discharge meets the requirements established in the TMDL. If a discharge is not/will not meet these requirements, the operator must seek coverage under an

alternative permit. Where a discharger is already operating under the permit and is later discovered to cause or have the reasonable potential to cause or contribute to the violation of a state water quality standard, the permitting authority will notify the operator of such violation(s) and the permittee shall take all necessary actions to ensure that future discharges do not cause or contribute to the violation of a water quality standard and document these actions in the pollution prevention plan. If violations remain or recur, then coverage under the permit is automatically terminated and alternate coverage must be obtained. Compliance with this requirement does not preclude any enforcement activity as provided by the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.) for the underlying violation.

The list of impaired waterbodies (sometimes referred to as 303(d) waterbodies) may be accessed on the LDEQ Internet site at http://www.deq.louisiana.gov/portal/Portals/0/planning/305b/2004/04%20IR1-FINAL-Appendix%20A%20WITH%20FINAL%20EPA%20ADDITIONS%20-%20August%2017%202005.xls or obtained from the Office of Environmental Services, Water Permits Division.

4. Exclusions.

This general permit **shall not** apply to:

a. Storm water discharges associated with industrial activity that originate from the site after construction activities have been completed and the site has undergone final stabilization.

b. Non-storm water discharges (except certain non-storm water discharges specifically listed in this general permit). However, this permit can authorize storm water discharges from construction where the discharges are mixed with non-storm water discharges that are authorized by a different LPDES permit.

c. Storm water discharges from construction activities that are covered by an existing LPDES permit. However, any permittee covered by another permit may request that the other permit be terminated if the permitted source or activity is also eligible for coverage under this general permit. Upon written approval of that request by this Office, the permittee will be covered by this general permit, and the other permit terminated.

d. Storm water discharges from construction activities that LDEQ has determined to be or may reasonably be expected to be causing or contributing to a violation of a water quality standard.

e. Storm water discharges from construction activities and storm water discharge-related activities, if the discharges are likely to adversely affect a listed endangered

or threatened species or its critical habitat (unless in compliance with specific Endangered Species Act (ESA) related conditions in the permit).

f. Storm water discharges from construction activities and storm water discharge-related activities, if the discharges are not in compliance with the National Historic Preservation Act (NHPA).

B. Automatic Coverage.

1. This permit is automatically applicable to all dischargers who meet the permit Part I.A (Applicability) requirements. Unless notified by LDEQ to the contrary, all dischargers who meet the Part I.A applicability requirements of this permit are authorized to discharge storm water from construction activities under the terms and conditions of this permit. No LDEQ fee will be assessed for coverage under the permit. A printed hard copy of this permit may be obtained by contacting LDEQ's Customer Service Center at (225) 219-5337, or a copy can be downloaded at http://www.deq.louisiana.gov/portal/Portals/0/permits/lpdes/LAR200000.pdf. If warranted, LDEQ may deny coverage under this general permit and require submittal of an application for an individual LPDES permit (see Part V.K of this permit).

2. Notification Requirements:

Written notification of intent to be covered under this general permit is not required. Operators who meet the Part I.A applicability requirements of this general permit are automatically covered. The storm water pollution prevention plan defined in Part III (Storm Water Pollution Prevention Plans) below must be implemented upon commencement of construction activities.

Coverage is granted to:

(1) a party having operational control over construction plans and specifications; and /or

(2) a party having day-to-day operational control over those activities at a project site which are necessary to ensure compliance with the storm water pollution prevention plan or other permit conditions.

When operational control over plans and specifications, and control over the day-to-day activities described above are held by separate parties, both parties must comply with the terms and conditions imposed under this general permit upon assuming operational control. In cases with only one control party, that party alone is required to comply with the terms and conditions imposed under this general permit.

3. For construction sites where the operator changes, or where a new operator is added, the new operator(s) must comply with the terms and conditions imposed under this general permit upon assuming operational control over site specifications or commencing work on-site.

C. Project Completion Report.

When a construction project is complete and the site has been stabilized in accordance with permit Part III.D.2.a.2, the permittee shall submit a Small Construction Activity Completion Report (SCACR) form (see Appendix B). The form must be signed and dated and submitted to the LDEQ Water Permits Division, P.O. Box 4313, Baton Rouge, LA 70821-4313, by January 28 of the year following the calendar year in which the project was completed.

Part II. SPECIAL CONDITIONS, MANAGEMENT PRACTICES, AND OTHER NON-NUMERIC LIMITATIONS

A. Prohibition on Non-Storm Water Discharges.

1. Except as provided in Part I.A.2 and Parts II.A.2 and 3, all discharges covered by this permit shall be composed entirely of storm water associated with construction activity.

2. Discharges of material other than storm water that are in compliance with an LPDES permit (other than this permit) issued for that discharge may be mixed with discharges authorized by this permit.

3. The following non-storm water discharges are authorized by this permit provided the non-storm water component of the discharge is in compliance with Part III.D.5 (Non-storm Water Discharges): discharges from fire fighting activities; fire hydrant flushings; waters used to wash vehicles where detergents are not used; waters used to control dust in accordance with Part III.D.2.c.(2); potable water sources including waterline flushings; routine external building washdown which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; uncontaminated ground water or spring water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

B. Requirements for Notification. The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of LAC 33:I.3915 and LAC 33:I.3917.

1. Emergency Notification - The permittee shall report any noncompliance which may endanger human health or the environment. As required by LAC 33:I.3915, in the event of an unauthorized discharge that does cause an emergency condition, the discharger shall notify the hotline by telephone at (225) 925-6595 (collect calls accepted 24 hours a day) immediately (reasonable period of time after taking prompt measures to determine the nature, quantity, and potential off-site impact of a release, considering the exigency of the circumstances), but in no case later than one hour after learning of the discharge. (An emergency condition is any condition which could reasonably be expected to endanger the health, safety of the public, cause significant adverse impact to the land, water, or air environment, or cause severe damage to property.) Notification required by this section will be made regardless of the amount of discharge. A written submission shall be provided within 7

days of the time that the permittee becomes aware of the circumstances. The report shall contain the following information:

a. a description of the noncompliance and its cause;

b. the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,

c. steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

2. The LDEQ may waive the written report required above, on a case-by-case basis, if the oral report has been received within 24 hours of the incident.

3. The storm water pollution prevention plan required under Part III (Storm Water Pollution Prevention Plans) of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the recurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

C. **Spills.** This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

D. **Discharge Compliance with Water Quality Standards.** Dischargers covered under this permit shall not cause or have the reasonable potential to cause or contribute to a violation of a water quality standard. Where a discharge is determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable State or Federal Water Quality Standard, the permitting authority will notify the operator of such violation(s) and the permittee shall take all necessary actions to ensure that future discharges do not cause or contribute to the violation of a water quality standard and document these actions in the storm water pollution prevention plan. If violations remain or recur, then coverage under this permit may be terminated by the permitting authority and an alternative permit may be issued. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act and Environmental Quality Act for the underlying violation.

E. **Responsibilities of Operators.**

Permittees may meet one or both of the operational control components in the definition of "operator" found in Part VII (Definitions). Either Part II.E.1 or Part II E.2 or both will apply depending on the type of operational control exerted by an individual permittee. Part III.E.3 applies to all permittees.

1. Permittee(s) with operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., developer or owner) must:

a. ensure the project specifications that they develop meet the minimum requirements of Part III (Storm Water Pollution Prevention Plans) and all other applicable conditions;

b. ensure that the storm water pollution prevention plan indicates the areas of the project where they have operational control over project specifications (including the ability to make modifications in the specifications), and ensure all other permittees implementing portions of the SWPPP impacted by any changes they make to the plan are notified of such modifications in a timely manner; and

c. ensure that the storm water pollution prevention plan for portions of the project for which they are operators indicates the name for parties with day-to-day operational control of those activities necessary to ensure compliance with the storm water pollution prevention plan or other permit conditions. If these parties have not been identified at the time the storm water pollution prevention plan is initially developed, the permittee with operational control over project specifications shall be considered to be the responsible party until such time as the authority is transferred to another party (e.g., general contractor) and the plan updated.

2. Permittee(s) with day-to-day operational control of those activities at a project which are necessary to ensure compliance with the storm water pollution prevention plan for the site or other permit conditions (e.g., general contractor) must:

a. ensure the storm water pollution prevention plan for portions of the project for which they are operators meets the minimum requirements of Part III (Storm Water Pollution Prevention Plans) and identifies the parties responsible for implementation of control measures identified in the plan;

b. ensure that the storm water pollution prevention plan indicates areas of the project where they have operational control over day-to-day activities; and

c. ensure that the storm water pollution prevention plan for portions of the project for which they are operators indicates the name of the party(ies) with operational control over project specifications (including the ability to make modifications in the specifications).

3. Permittees with operational control over only a portion of a larger construction site (e.g., one of four homebuilders in a subdivision) are responsible for compliance with all applicable terms and conditions of this permit as it relates to their activities on their portion of the construction site, including protection of endangered species and implementation of BMPs and other controls required by the SWPPP. Permittees shall ensure either directly or through coordination with other permittees that their activities do not render another party's pollution controls ineffective. Permittees must either implement their portions of a common SWPPP or develop and implement their own SWPPP.

Part III. STORM WATER POLLUTION PREVENTION PLANS

At least one storm water pollution prevention plan (SWPPP) shall be developed for each construction project or site covered by this permit. For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive storm water pollution prevention plan is encouraged. Individual operators at a site may, but are not required to, develop separate storm water pollution prevention plans that cover only their portion of the project provided that reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, coordination must be conducted between the permittees to ensure the storm water discharge controls and other measures are consistent with one another (e.g., provisions to protect listed species and critical habitat).

Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site. The SWPPP shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges associated with construction activity at the construction site and to assure compliance with the terms and conditions of this permit. When developing SWPPPs, operators must follow the procedures in Addendum A of this permit to determine whether listed endangered or threatened species or critical habitat would be affected by the operator's storm water discharges or storm water discharge-related activities. Any information on whether listed species or critical habitat are found in proximity to the construction site must be included in the storm water pollution prevention plan. Any terms or conditions that are imposed under the eligibility requirements of Part I.A.3.e and Addendum A of this permit to protect listed species or critical habitat from storm water discharges or storm water discharge-related activity must be incorporated into the storm water pollution prevention plan. Permittees must implement the applicable provisions of the SWPPP required under this Part as a condition of this permit.

A. <u>Deadlines for Plan Preparation and Compliance</u>.

The storm water pollution prevention plan shall:

1. Be completed prior to initiating construction activities and updated as appropriate; and

2. The plan shall provide for compliance with the terms and schedule of the SWPPP beginning with the initiation of construction activities.

B. Signature, Plan Review and Making Plans Available.

1. The SWPPP shall be signed in accordance with Part V.G (Signatory Requirements), and be retained on-site at the facility which generates the storm water discharge in accordance with Part IV (Retention of Records) of this permit.

2. The permittee shall post a notice near the main entrance of the construction site with the following information:

a. the LPDES permit number (LAR200000) and effective date of this permit;

b. the name and telephone number of a local contact person;

c. a brief description of the project; and

d. the location of the SWPPP if the site is inactive or does not have an on-site location to store the plan.

If posting this information near a main entrance is infeasible due to safety concerns, the notice shall be posted in a local public building. If the construction project is a linear construction project (e.g., pipeline, highway, etc.), the notice must be placed in a publicly accessible location near where construction is actively underway and moved as necessary. This permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site, nor does this permit require that permittees allow members of the public access to a construction site.

3. The permittee shall make SWPPPs available upon request to: LDEQ; the local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; or to the operator of a municipal separate storm sewer receiving discharges from the site. The copy of the SWPPP that is required to be kept on-site (or locally available) must be made available to LDEQ (or authorized representative) for review at the time of an on-site inspection. Also, in the interest of public involvement, LDEQ encourages permittees to make their SWPPPs available to the public for viewing during normal business hours.

4. The LDEQ may notify the permittee (co-permittees) at any time that the SWPPP does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of this permit which are not being met by the SWPPP, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this Part. Within 7 calendar days of receipt of such notification from LDEQ, (or as otherwise provided by LDEQ), or authorized representative, the permittee shall make the required changes to the plan and shall submit to LDEQ a written certification that the requested changes have been made. The LDEQ may take

appropriate enforcement action for the period of time the permittee was operating under a plan that did not meet the minimum requirements of the permit.

C. **Keeping Plans Current**. The permittee must amend the storm water pollution prevention plan whenever:

1. there is a change in design, construction, operation, or maintenance, which has a significant effect on the discharge of pollutants to the waters of the State and which has not otherwise been addressed in the SWPPP;

2. inspections or investigations by site operators, local, state, or federal officials indicate the storm water pollution prevention plan is proving ineffective in eliminating or significantly minimizing pollutants from sources identified under Part III.D.1 of this permit, or is otherwise not achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity; and

3. the plan shall be amended to identify any new contractor and/or subcontractor that will implement a measure of the storm water pollution prevention plan (see Part III.C.3). The plan must also be amended to address any measures necessary to protect endangered and threatened species or historic properties. Amendments to the plan may be reviewed by LDEQ in the same manner as Part III.B above.

D. **Contents of Plan.** The storm water pollution prevention plan shall include the following items:

1. **Site Description**. Each SWPPP shall provide a description of potential pollutant sources and other information as indicated below:

a. a description of the nature of the construction activity;

b. a description of the intended sequence of major activities which disturb soils for major portions of the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation, etc);

c. estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities including off-site borrow and fill areas;

d. an estimate of the runoff coefficient of the site for both the pre-construction and post-construction conditions and data describing the soil or the quality of any discharge from the site;

e. a general location map (e.g., portion of a city or county map or similar scale) and a site map indicating drainage patterns and approximate slopes anticipated after major grading activities, areas of soil disturbance, an outline of areas which will not be disturbed, the location of major structural and nonstructural controls identified in the SWPPP, the location of areas where stabilization practices are expected to occur, locations of off-site material, waste, borrow or equipment storage areas, surface waters (including wetlands), and locations where storm water is discharged to a surface water;

f. location and description of any discharge associated with industrial activity other than construction;

g. the name of the receiving water(s), and areal extent and description of wetland or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project;

h. a copy of the permit requirements (may simply attach a copy of this permit);

i. information on whether listed endangered or threatened species and/or critical habitat are found in proximity to the construction activity and whether such species may be affected by the operator's storm water discharges or storm water discharge-related activities; and

j. documentation supporting the determination of permit eligibility with regard to Permit Part I.A.3.f (National Historic Preservation Act), including:

information on whether storm water discharges or storm water discharge-related activities would have an effect on a property that is listed or eligible for listing on the National Register of Historic Places;

where effects may occur, any written agreements made between the operator and the State Historic Preservation Officer to mitigate those effects;

results of the Addendum C historic places screening determinations; and

a description of measures necessary to avoid or minimize adverse impacts on places listed, or eligible for listing, on the National Register of Historic Places, including any terms or conditions that are imposed under the eligibility requirements of Part I.A.3.f of this permit.

2. Controls. Each SWPPP shall include a description of appropriate control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm

water discharges. The SWPPP must clearly describe for each major activity identified in Part III.D.1.b: a) appropriate control measures and the general timing (or sequence) during the construction process that the measures will be implemented and b) which permittee is responsible for implementation (e.g., perimeter controls for one portion of the site will be installed by Contractor A after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls will be actively maintained by Contractor B until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls will be removed by Owner after final stabilization).

In a situation where an LDEQ-approved or established TMDL has specified a general wasteload allocation applicable to construction storm water discharges, but no specific requirements for construction sites have been identified in the TMDL, the SWPPP must specifically state which BMPs were selected for the site and describe how the design and implementation of the selected BMPs are expected to ensure that storm water discharges from the construction site are in compliance with the established TMDL.

The description and implementation of control measures shall address the following minimum components:

a. Erosion and Sediment Controls.

(1) Short and Long Term Goals and Criteria:

(a) The construction-phase erosion and sediment controls should be designed to retain sediment on-site to the maximum extent practicable.

(b) All control measures must be properly selected, installed, and maintained in accordance with the manufacturers specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee must replace or modify the control for site situations.

(c) If sediments escape the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts (e.g., fugitive sediment in street could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets).

(d) Sediment must be removed from sediment traps or sedimentation ponds when design capacity has been reduced by 50%.

(e) Litter, construction debris, and construction chemicals exposed to storm water shall be prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, picked up daily, etc.).

(f) Off-site material storage areas (also including overburden and stockpiles of dirt, borrow areas, etc.) used solely by the permitted project are considered a part of the project and shall be addressed in the storm water pollution prevention plan.

(2) Stabilization Practices. The SWPPP must include a description of interim and permanent stabilization practices for the site, including a site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include, but are not limited to: establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Use of impervious surfaces for stabilization should be avoided.

The following records shall be maintained and attached to the SWPPP: the dates when major grading activities occur; the dates when construction activities temporarily or permanently cease on a portion of the site; and the dates when stabilization measures are initiated. Except as provided in Parts III.D.2.(a).(1).(a), (b), and (c) below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

(a) Where the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceases, is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.

(b) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 21 days, temporary stabilization measures do not have to be initiated on that portion of site.

(c) In areas experiencing droughts where the initiation of stabilization measures by the 14th day after construction activity has temporarily or permanently ceased is precluded by seasonal arid conditions, stabilization measures shall be initiated as soon as practicable.

(3) Structural Practices. The SWPPP must include a description of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable. Such practices may include but are not limited to: silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Placement of structural practices in floodplains should be avoided to the degree attainable. The installation of these devices may be subject to Section 404 of the CWA.

b. Storm Water Management. A description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed must be included in the SWPPP. Structural measures should be placed on upland soils to the degree attainable. The installation of these devices may also require a separate permit under Section 404 of the CWA. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with construction activity have been eliminated from the site. However, post-construction storm water BMPs that discharge pollutants from point sources once construction is completed, may in themselves, need authorization under a separate LPDES permit.

(1) Such practices may include but are not limited to: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff on-site; and sequential systems (which combine several practices). The storm water pollution prevention plan shall include an explanation of the technical basis used to select the practices to control pollution where flows exceed pre-development levels.

(2) Velocity dissipation devices may be needed at discharge locations and along the length of any outfall channel for the purpose of providing a non-erosive velocity flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

c. Other Controls.

(1) No solid materials, including building materials, shall be discharged to waters of the State, except as authorized by a permit issued under Section 404 of the CWA. "Solid materials" refers to such items as boards, wrapping materials, bricks and

concrete debris, and land clearing debris such as leaves and tree limbs, but does not include total suspended solids.

(2) Off-site vehicle tracking of sediments and the generation of dust shall be minimized.

(3) The SWPPP shall ensure and demonstrate compliance with applicable State and/or local waste disposal, sanitary sewer or septic system regulations to the extent these are located within the permitted area.

(4) The SWPPP shall include a narrative description of construction and waste materials expected to be stored on-site, with updates as appropriate. The SWPPP shall also include a description of controls developed to reduce pollutants from these materials including storage practices to minimize exposure of the materials to storm water, and spill prevention and response.

5) The SWPPP shall include a description of pollutant sources from areas other than construction (including discharges from dedicated cement/concrete and asphalt plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.

(6) The SWPPP shall include a description of measures necessary to protect listed endangered and threatened species and/or critical habitat including any terms or conditions that are imposed under the eligibility requirements of Part I.A.3.e of this permit. Failure to describe and implement such measures will result in the storm water discharges from the construction activities being ineligible for coverage under this permit.

d. Approved State or Local Plans.

(1) Permittees which discharge storm water associated with construction activities must include in their storm water pollution prevention plan the procedures and requirements which are specified in applicable sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State or local officials.

(2) Permittees which discharge storm water associated with construction activities must include in their storm water pollution prevention plan any measures that result from agreements from Louisiana State Historic Preservation Officer or tribal historic preservation offices.

(3) Storm water pollution prevention plans must be updated as necessary to reflect any changes which are applicable to protecting surface water resources in the sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State, or local officials for which the permittee receives written notice.

3. **Maintenance.** A description of procedures to ensure the timely maintenance of vegetation, erosion and sediment control measures, and other protective measures identified in the site plan are in good and effective operating condition must be provided. Maintenance needs identified in inspections or by other means shall be accomplished before the next anticipated storm event, or as necessary to maintain the continued effectiveness of storm water controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.

4. **Inspections.** Except for linear or remote projects as discussed below, qualified personnel (provided by the permittee or cooperatively by multiple permittees) shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site at least once every 14 calendar days, before anticipated storm events (or series of storm events, such as intermittent showers over one or more days) expected to cause a significant amount of runoff and within 24 hours of the end of a storm event of 0.5 inches or greater.

Because linear or remote, unmanned projects often cannot be inspected from stabilized locations without damage to BMPs or re-vegetation efforts, these operators have the option of either 1) conducting regular visual inspections every two weeks, or 2) performing visual inspections within 24 hours following a storm event of 0.5 inches or greater. The option selected by the operator must be identified in the SWPPP and must be adhered to throughout the term of permit coverage.

a. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to the receiving waters. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.

b. Based on the results of the inspection, the site description identified in the plan in accordance with Part III.D.1 of this permit and pollution prevention measures identified in the plan in accordance with Part III.D.2 of this permit shall be revised as appropriate, but in no case later than seven calendar days following the inspection. Such modifications shall

provide for timely implementation of any changes to the plan within seven calendar days following the inspection.

c. A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan (including the location(s) of discharges of sediment or other pollutants from the site and of any control device that failed to operate as designed, or proved inadequate for a particular location), and actions taken in accordance with Part III.D.4.b of the permit shall be made and retained as part of the storm water pollution prevention plan for at least three years from the date that the site is finally stabilized. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part V.G of this permit.

5. Non-Storm Water Discharges - Except for flows from fire fighting activities, sources of non-storm water listed in Parts I.A.2 and II.A.2 and 3 of this permit that are combined with storm water discharges associated with construction activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

Part IV. RETENTION OF RECORDS

A. **Documents.** The permittee shall retain copies of storm water pollution prevention plans and all records and reports required by this permit for a period of at least three years from the date that the site is finally stabilized. This period may be extended by request of LDEQ at any time.

B. **Accessibility.** The permittee shall retain a copy of the storm water pollution prevention plan required by this permit (including a copy of the permit language) at the construction site (or other local site accessible to LDEQ and the public) from the date of project initiation to the date of final stabilization. The permittees with day-to-day operational control over pollution prevention plan implementation shall have a copy of the plan available at a central location on-site for the use of all operators and those identified as having responsibilities under the plan whenever they are on the construction site. A copy of the plan must be readily available to inspectors during normal business hours.

C. **Addresses.** All written correspondence concerning discharges in Louisiana from any facility covered under this permit, including the submittal of individual permit applications, shall be identified by agency interest number and/or permit number, if one is assigned, and sent to the address below.

Louisiana Department of Environmental Quality
Office of Environmental Services
P. O. Box 4313
Baton Rouge, LA 70821-4313
Attn: Water Permits Division

Part V. STANDARD PERMIT CONDITIONS

A. Duty to Comply.

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Louisiana Environmental Quality Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Penalties for Violations of Permit Conditions.

LA. R.S. 30:2025 provides for civil penalties for violations of these regulations and the Louisiana Environmental Quality Act. LA. R.S. 30:2076.2 provides for criminal penalties for violation of any provisions of the LPDES or any order or any permit condition or limitation issued under said program or implementing any provisions of the LPDES program.

a. Criminal Penalties

(1) Negligent Violations The Louisiana Revised Statutes LA. R.S. 30:2076.2 provides that any person who negligently violates any provision of the LPDES, or any order issued by the Secretary under the LPDES, or any permit condition or limitation implementing any such provision in a permit issued under the LPDES by the Secretary, or any requirement imposed in a pretreatment program approved under the LPDES, is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both. If a conviction of a person is for a violation committed after a first conviction of such person, he shall be subject to a fine of not more than $50,000 per day of violation, or imprisonment of not more than two years, or both.

(2) Knowing Violations The Louisiana Revised Statues LA. R.S. 30:2076.2 provides that any person who knowingly violates any provision of the LPDES, or any permit condition or limitation implementing any such provisions in a permit issued under the LPDES, or any requirement imposed in a pretreatment program approved under the LPDES, is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or imprisonment for not more than 3 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person, he shall be subject to a fine of not more than $100,000 per day of violation, or imprisonment of not more than six years, or both.

(3) Knowing Endangerment The Louisiana Revised Statutes LA. R.S. 30:2076.2 provides that any person who knowingly violates any provision of the LPDES, or any order issued by the Secretary under the LPDES, or any permit condition or limitation implementing any such provisions in a permit issued under the LPDES by the Secretary, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000, or by imprisonment for not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this Part, be subject to a fine of not more than one million dollars. If a conviction of a person is for a violation committed after a first conviction of such person under this Part, the maximum punishment shall be doubled with respect to both fine and imprisonment.

(4) False Statement The Louisiana Revised Statutes LA. R.S. 30:2076.2 provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the LPDES or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the LPDES, shall upon conviction, be subject to a fine of not more than $10,000 or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person, he shall be subject to a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

b. Civil Penalties - The Louisiana Revised Statutes LA R.S. 30:2025 provides that any person found to be in violation of any requirement of this Subtitle may be liable for a civil penalty, to be assessed by the Secretary, an Assistant Secretary, or the court, of not more than the cost to the state of any response action made necessary by such violation which is not voluntarily paid by the violator, and a penalty or not more than $32,500 for each day of violation. However, when any such violation is done intentionally, willfully, or knowingly, or results in a discharge or disposal which causes irreparable or severe damage to the environment, or if the substance discharged is one which endangers human life or health, such person may be liable for an additional penalty of not more than one million dollars.

B. Continuation of the Expired General Permit.

This permit expires five years after the effective date. Should this permit expire before it is reissued, this Office will administratively extend the permit to discharge for permittees that were covered prior to the expiration, until such time that a new general permit is issued. Upon

reissuance or replacement of this permit, the permittee must comply with the requirements for obtaining coverage under the new permit to maintain authorization to discharge.

C. **Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

E. **Duty to Provide Information.** The permittee shall furnish to LDEQ, within a reasonable time, any information which LDEQ may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the state administrative authority, upon request, copies of records required to be kept by this permit.

F. **Other Information.** When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in any other report to LDEQ, he or she shall promptly submit such facts or information.

G. **Signatory Requirements.** All storm water pollution prevention plans, reports, certifications or information either submitted to LDEQ or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed as follows.

1. All reports required by the permit and other information requested by LDEQ shall be signed by a person described in LAC 33:IX.2503.A, or by a duly authorized representative of that person (LAC 33:IX.2503.B). A person is a duly authorized representative only if:

   a. The authorization is made in writing by a person described above,

   b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (a duly authorized representative may thus be either a named individual or any individual occupying a named position) and,

   c. The written authorization is submitted to the state administrative authority.

d. **Certification.** Any person signing documents under this Part shall make the following certifications:

Completion Report:

I certify under penalty of law that project activities were completed in accordance with the requirements of the Clean Water Act and the Louisiana Environmental Quality Act, and specifically in accordance with the LPDES Small Construction General Permit, LAR200000, under which the storm water discharges related to the construction were authorized. I understand that submittal of this Report does not release an Operator from liability for any violation of the permit or the Act. I further certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete, and that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

All Other Documents:

"I certify under penalty of law that this document and any attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluat the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

H. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

I. Property Rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

J. Severability. If any provision of these rules and regulations, or the application thereof, is held to be invalid, the remaining provisions of these rules and regulations shall not be affected, so long as they can be given effect without the invalid provision. To this end, the provisions of these rules and regulations are declared to be severable.

K. Requiring an Individual Permit or an Alternative General Permit.

1. The LDEQ may require any person authorized by this permit to apply for and/or obtain either an individual LPDES permit or an alternative LPDES general permit. Any interested person may

petition LDEQ to take action under this Part. Where LDEQ requires a discharger authorized to discharge under this permit to apply for another LPDES permit, LDEQ shall notify the discharger in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application, and a statement that on the effective date of issuance or denial of the individual LPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted as indicated in Part IV.C (Addresses) of this permit. The LDEQ may grant additional time to submit the application upon request of the operator. If a discharger fails to submit in a timely manner an individual LPDES permit application as required by LDEQ under this Part, then the applicability of this permit to the individual LPDES permittee is automatically terminated at the end of the day specified by LDEQ for application submittal.

2. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit or an alternative general permit. In such cases, the permittee shall submit an individual application, with reasons supporting the request, to LDEQ at the address indicated in Part IV.C of this permit. The request may be granted by issuance of an individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.

3. When an individual LPDES permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative LPDES general permit, the applicability of this permit to the LPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual LPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative LPDES general permit, the applicability of this permit to the LPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by LDEQ.

L. State Laws.

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act.

2. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

M. Proper Operation and Maintenance.

1. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also

includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and other functions necessary to ensure compliance with the conditions of this permit.

N. **Inspection and Entry**. The permittee shall allow LDEQ or an authorized representative (including an authorized contractor acting as a representative of the Administrator), or, in the case of a construction site which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit. Enter upon the permittee's premises where a discharge source is or might be located or in which monitoring equipment or records required by a permit are kept for inspection of sampling purposes. Most inspections will be unannounced and should be allowed to begin immediately, but in no case shall begin more than thirty (30) minutes after the time the inspector presents his/her credentials and announces the purpose(s) of the inspection. Delay in excess of thirty (30) minutes shall constitute a violation of this permit. However, additional time can be granted if the inspector or the Administrative Authority determines that the circumstances warrant such action;

2. Have access to and copy at reasonable times, any records that the department or its authorized representative determines are necessary for the enforcement of this permit. For records maintained in either a central or private office that is open only during normal office hours and is closed at the time of inspection, the records shall be made available as soon as the office is open, but in no case later than the close of business the next working day;

3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Clean Water Act or the Louisiana Environmental Quality Act, any substances or parameters at any location.

O. **Upset Conditions**.

1. Upset - an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error,

improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part V.O.3 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

3. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required by LAC 33:IX.2701.L.6.b.ii and Part II.B.1, II.B.2. and II.B.3.; and,

d. The permittee complied with any remedial measures required by Part II.D (Discharge Compliance with Water Quality Standards).

4. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

P. Removed Substances. Solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or wastewater control shall be properly disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State, and in accordance with environmental regulations.

Q. Prohibition for Tampering: Penalties.

1. LA R.S. 30:2025 provides for punishment of any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit.

2. LA R.S. 30:2076.2 provides for penalties for any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance.

R. Reporting Requirements.

1. Anticipated Noncompliance. The permittee shall give advance notice to the state administrative authority of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

S. Availability of Reports.

All recorded information (completed report forms or any public document) not classified as confidential information under R.S. 30:2030(A) and 30:2074(D) and designated as such in accordance with these regulations (LAC 33:IX.2323 and LAC 33:IX.6503) shall be made available to the public for inspection and copying during normal working hours in accordance with the Public Records Act, R.S. 44:1 et seq.

Claims of confidentiality for the following will be denied:

a. The name and address of any permit operator or permittee;

b. Permit applications, permits, and effluent data;

c. Information required by LPDES application forms provided by the state administrative authority under LAC 33:IX.2501 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

T. Permit Actions.

This permit may be modified, revoked and reissued, or terminated for cause in accordance with LAC 33:IX.2903, 2905, 2907, 3105 and 6509. The causes may include, but are not limited to, the following:

a. Noncompliance by the permittee with any condition of the permit;

b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

c. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;

d. A change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge;

e. Failure to pay applicable fees under the provisions of LAC 33: IX. Chapter 13; or

f. Change of ownership or operational control.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Part VI. REOPENER CLAUSE

If there is evidence indicating that the discharges authorized by this permit cause, have the reasonable potential to cause, or contribute to a violation of a water quality standard, the discharger may be required to obtain an individual permit or an alternative general permit in accordance with Part V.K of this permit or the permit may be modified to include different requirements and/or limitations.

Part VII. DEFINITIONS

"Alternative permit" means another permit – either an individual permit or a different general permit.

"Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Control Measure" as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

"Commencement of Construction"means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

"Common Plan of Development" means a contiguous (sharing a boundary or edge; adjacent; touching) area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

"CWA" means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C §1251 et seq.

"Discharge of Storm Water Associated with Construction Activity" as used in this permit, refers to storm water "point source" discharges from areas where soil disturbing activities (e.g., clearing, grading, or excavation, etc.), or construction materials or equipment storage or maintenance (e.g., fill piles, fueling, etc.) are located.

"Final Stabilization" means that all soil disturbing activities at the site have been completed, and that a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. Establishing at least 70% of the natural cover of native vegetation meets the vegetative cover criteria for final stabilization. For example, if the native vegetation covers 50% of the ground prior to commencement of construction activities, 70% of 50% would require 35% total cover for final stabilization.

"Large and Medium municipal separate storm sewer system" means all municipal separate storm sewers that are either:

(i) located in an incorporated place (city) with a population of 100,000 or more as determined by the 1990 Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of LAC 33:IX); or

(ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of LAC 33:IX); or

(iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by LDEQ as part of the large or medium municipal separate storm sewer system.

"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 Clean Water Act in accordance with Section 402 of the Clean Water Act and all applicable federal regulations.

"National Pollutant Discharge Elimination System" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Clean Water Act.

"Operator" means any party associated with the construction project that meets either of the following two criteria: (1) the party has operational control over project specifications (including the ability to make modifications in those specifications), or (2) the party has day-to-day operational control of those activities at a project site which are necessary to ensure compliance with the storm water pollution prevention plan or other permit conditions (e.g., they are authorized to direct workers at the site to carry out activities identified in the storm water pollution prevention plan or comply with other permit conditions).

"Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

"Process Wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater may include interior or exterior washing of plant trucks or product receptacles.

"Runoff coefficient" means the fraction of total rainfall that will leave the site as runoff.

"State Administrative Authority" means the Secretary of the Department of Environmental Quality or his designee, or the appropriate assistant secretary or his designee.

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm Water Associated with Industrial Activity" is defined at LAC 33:IX.2511.B.14 and incorporated here by reference.

"Storm Water Discharge Associated with Small Construction Activity" is defined at LAC 33:IX.2511.B.15. This includes discharges of storm water from construction activities including clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than one or less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Total Suspended Solids (TSS)" means the amount of solid material suspended in water commonly expressed as a concentration in terms of mg/L.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Waters of the State" means 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.

ADDENDUM A

ENDANGERED SPECIES GUIDANCE

ENDANGERED SPECIES GUIDANCE – SMALL CONSTRUCTION GENERAL PERMIT

I. INSTRUCTIONS

A list of endangered and threatened species that EPA has determined may be affected by the activities covered by the Construction General Permit is available at http://www.deq.louisiana.gov/portal/LinkClick.aspx?link=permits%2flpdes%2f2006+FWS+MOU.pdf. The species listing by parish is found near the end of the MOU. In order to be eligible for coverage under this permit, operators must:

- Determine whether any species listed in this Guidance or critical habitat are in proximity to the facility, and

- Pursuant to Permit Part I.A.3.e, follow the procedures found in this Guidance to protect listed endangered and threatened species and designated critical habitat and determine that the storm water discharges and BMPs to control storm water run off covered under this permit meet one or more of the eligibility requirements of Part I.A.3.e.(1) of this permit. Signature and submittal of the Small Construction Activity Completion Report is deemed to constitute the Operator's compliance with eligibility requirements for permit coverage.

To determine permit eligibility and to avoid unauthorized impacts upon threatened or endangered species or on the critical habitat for those species, you must follow steps 1 through 4 (and 5 if applicable), below when developing the pollution prevention plan.

NOTE: At any step in the determination, applicants may contact the U.S. Fish and Wildlife Service (FWS) for guidance. That request should be in writing and should include a description of the facility and a topographic map depicting the locations of the facility, the proposed construction activities, and the associated storm water discharges.

U.S. Fish and Wildlife Service
646 Cajundome Blvd.
Suite 400
Lafayette, LA 70506
(337) 291-3108

STEP 1: DETERMINE IF THE CONSTRUCTION SITE OR ASSOCIATED STORM WATER DISCHARGES ARE WITHIN THE VICINITY OF FEDERALLY LISTED THREATENED OR ENDANGERED SPECIES, OR THEIR DESIGNATED CRITICAL HABITAT.

If either the proposed site or the path of storm water from the site to the receiving stream is in a parish included on the Endangered Species List, the applicant should proceed to **Step 2** below. If, however, neither is located in a listed parish, then the applicant should proceed directly to **Step 5.**

If no species are listed in the site's parish or if a facility's parish is not found on the list, the applicant is eligible for permit coverage. Where a project is located in more than one parish, the lists for all parishes shall be reviewed.

STEP 2: DETERMINE IF ANY SPECIES MAY BE FOUND "IN PROXIMITY" TO THE CONSTRUCTION ACTIVITY'S STORM WATER DISCHARGES:

A species is in proximity to a construction activity's storm water discharge when the species is:

- Located in the path or immediate area through which or over which contaminated point source storm water flows from construction activities to the point of discharge into the receiving water; or
- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters; or
- Located in the area of a site where storm water BMPs are planned or are to be constructed.

The area in proximity to be searched/surveyed for listed species will vary with the size and structure of the construction activity, the nature and quantity of the storm water discharges, and the type of receiving waters. Given the number of construction activities potentially covered by the permit, no specific method to determine whether species are in proximity is required for permit coverage. Instead, operators should use the method or methods which best allow them to determine to the best of their knowledge whether species are in proximity to their particular construction activities. These methods may include:

- Conducting visual inspections: This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal storm water collection systems.

- Contacting the nearest State or Tribal Wildlife Agency or U.S. Fish and Wildlife Service (FWS) offices. Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to State, Tribal, or Federal wildlife agencies.

- Contacting local/regional conservation groups. These groups inventory species and their locations and maintain lists of sightings and habitats.

- Conducting a formal biological survey. Larger construction sites with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in proximity and whether there are likely adverse effects.

- Conducting an Environmental Assessment Under the National Environmental Policy Act (NEPA). Some construction activities may require environmental assessments under NEPA. Such assessments may indicate if listed species are in proximity. (Construction General Permit coverage does not trigger NEPA because it does not regulate any dischargers subject to New Source Performance Standards under Section 306 of the Clean Water Act. See CWA § 511(c). However, some construction activities might require review under NEPA because of Federal funding or other Federal nexus.)

If no species are in proximity, an operator is eligible for Construction General Permit coverage under Permit Part I.A.3.E.(1)(a).

If listed species are found in proximity to a facility, operators must indicate the location and nature of this presence in the storm water pollution prevention plan and follow step 3 below.

STEP 3: DETERMINE IF SPECIES OR CRITICAL HABITAT COULD BE ADVERSELY AFFECTED BY THE CONSTRUCTION ACTIVITY'S STORM WATER DISCHARGES OR BY BMPs TO CONTROL THOSE DISCHARGES.

Scope of Adverse Effects: Potential adverse effects from storm water include:

- Hydrological. Storm water may cause siltation, sedimentation or induce other changes in the receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.

- Habitat. Storm water may drain or inundate listed species habitat.

- Toxicity. In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. Operators must also consider the likelihood of adverse effects on species from any BMPs to control storm water. Most adverse impacts from BMPs are likely to occur from the construction activities. However, it

is possible that the operation of some BMPs (for example, larger storm water retention ponds) may affect endangered and threatened species.

If adverse effects are determined to be unlikely, then the operator is eligible for permit coverage under Part I.A.3.e(1)(a).

If adverse effects are likely, operators should follow step 4 below.

STEP 4: DETERMINE IF MEASURES CAN BE IMPLEMENTED TO AVOID ANY ADVERSE EFFECTS:

If it is determined that adverse effects cannot be ruled out or are likely, the operator can receive coverage if appropriate measures are undertaken to avoid or eliminate any actual or potential adverse effects prior to applying for permit coverage. These measures may involve relatively simple changes to construction activities such as re-routing a storm water discharge to bypass an area where species are located, relocating BMPs, or limiting the size of construction activity that will be subject to storm water discharge controls.

At this stage, operators must contact the FWS (or the National Marine Fisheries Service if referred to that Service by FWS) to see what appropriate measures might be suitable to avoid or eliminate adverse impacts to listed species and/or critical habitat. This can entail the initiation of informal coordination with the FWS (and/or NMFS, if appropriate) which is described in more detail below at step 5.

If operators adopt measures to avoid or eliminate adverse effects, they must continue to abide by them during the course of permit coverage. These measures must be described in the storm water pollution prevention plan and may be enforceable as permit conditions.

If appropriate measures to avoid the likelihood of adverse effects are not available to the operator, the operator should follow step 5 below.

STEP 5: DETERMINE IF THE ELIGIBILITY REQUIREMENTS OF PART I.A.3.E.(1)(b)-(d) CAN BE MET.

Where adverse effects are likely, the operator must contact FWS. Operators may still be eligible for permit coverage if any likelihood of adverse effects is addressed through meeting the criteria of Part I.A.3.e.(1)(b)-(d) of the permit if:

- I.A.3.e.(1)(b). The operator's activity has received previous authorization through an earlier Section 7 consultation or issuance of a Endangered Species Act (ESA) Section 10 permit (incidental taking permit) and that authorization addressed storm water discharges and/or BMPs to control storm water runoff (e.g., developer included impact of entire project in consultation over a wetlands dredge and fill permit under Section 7 of the ESA).

OR

- I.A.3.e.(1)(c). The operator's activity was previously considered as part of a larger, more comprehensive assessment of impacts on endangered and threatened species and/or critical habitat, under Section 7 or Section 10 of the Endangered Species Act, which accounts for storm water discharges and BMPs to control storm water runoff (e.g., where an area-wide habitat conservation plan and Section 10 permit is issued which addresses impacts from construction activities, including those from storm water, or a NEPA review is conducted which incorporates ESA Section 7 procedures).

OR

- I.A.3.e.(1)(d). The operator's activity was considered as part of a larger, more comprehensive site-specific assessment of impacts on endangered and threatened species by the owner or other operator of the site when it developed a SWPPP and that permittee met the eligibility requirements stated in items I.A.3.e.(1)(a), (b), or (c) of the permit (e.g., owner was able to determine there would be no adverse impacts for the project as a whole under item (a), so contractor meets the eligibility requirements stated in item (d)). Utility companies applying for area-wide permit coverage meet the eligibility requirements stated in item (d) since authorization to discharge is contingent on a principal operator of a construction project having been granted coverage under this, or an alternative LPDES permit for the areas of the site where utilities installation activities will occur.

The determination of eligibility under the conditions of permit Parts I.A.3.e.(1) (b)-(d) shall be documented in the facility's SWPPP and copies of all applicable documents, such as FWS approval letters, included in the SWPPP. The operator must comply with any terms and conditions imposed under the eligibility requirements of permit Parts I.A.3.e.(1)(a), (b), (c), (d) to ensure that storm water discharges or BMPs to control storm water runoff are protective of listed endangered and threatened species and/or critical habitat. Such terms and conditions must be incorporated in the operator's storm water pollution prevention plan.

If the eligibility requirements of Part I.A.3.e.(1)(a)-(d) cannot be met then the operator may not receive coverage under this permit. Operators should then consider applying to LDEQ for an individual permit.

This permit does not authorize any "taking" (as defined under Section 9 of the Endangered Species Act) of endangered or threatened species unless such takes are authorized under Sections 7 or 10 the Endangered Species Act. Operators who believe their construction activities may result in takes of listed endangered and threatened species should be sure to get the necessary coverage for such takes through an individual consultation or Section 10 permit.

This permit does not authorize any storm water discharges or BMPs to control storm water runoff that are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the Endangered Species Act or result in the adverse modification or destruction of designated critical habitat.

II. ENDANGERED SPECIES PARISH LIST

See http://www.deq.louisiana.gov/portal/LinkClick.aspx?link=permits%2flpdes%2f2006+FWS+MOU.pdf.

ADDENDUM B

COMPLETION REPORT

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
Office of Environmental Services, Permits Division
Post Office Box 82135
Baton Rouge, Louisiana 70884-2135
PHONE#: (225) 765-0508 or (888) 763-5424; FAX#: (225) 765-0222

SMALL CONSTRUCTION ACTIVITY COMPLETION REPORT LAR200000

(To be submitted by January 28 in the year FOLLOWING COMPLETION of covered activities.)

I. OPERATOR INFORMATION

Name: _____
Mail Address: _____
City: _____
State: _____ Zip Code: _____
Phone: _____ DEQ AI# (if known): _____

II. FACILITY/SITE INFORMATION

Name of Project: _____
Location of Project: _____
City: _____ State: _____ Zip Code: _____
Parish: _____
Name of Receiving Water: _____
Total Area of Land Disturbance (in acres): _____
Construction Start Date: _____
Construction Completion/Site Stabilization Date: _____
List existing or prior water discharge permits for the location: _____

III. CERTIFICATION

I certify under penalty of law that project activities were completed in accordance with the requirements of the Clean Water Act and the Louisiana Environmental Quality Act, and specifically in accordance with the LPDES Small Construction General Permit, LAR200000, under which the storm water discharges related to the construction were authorized. I understand that submittal of this Report does not release an Operator from liability for any violation of the permit or the Act. I further certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete, and that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: _____ Date: _____

Signature: _____

ADDENDUM C

HISTORIC PRESERVATION

HISTORIC PROPERTIES GUIDANCE

Operators must determine whether their facility's industrial storm water discharge, or the construction of best management practices (BMPs) to control such discharge, have potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

For existing dischargers who do not need to construct BMPs for permit coverage, a simple visual inspection may be sufficient to determine whether historic properties are affected. However, for facilities which are new industrial storm water dischargers, and for existing facilities which are planning to construct BMPs for permit eligibility, operators should conduct further inquiry to determine whether historic properties may be affected by the storm water discharge or BMPs to control the discharge. In such instances, operators should first determine whether there are any historic properties or places in the vicinity that are listed on the National Register, or if any are eligible for listing on the register (e.g., they are "eligible for listing").

Due to the large number of entities seeking coverage under this permit and the limited number of personnel available to the State Historic Preservation Officer to respond to inquiries concerning the location of historic properties, it is suggested that operators first access the "National Register of Historic Places" information listed on the National Park Service's web page at the address listed below. The address for the Louisiana State Historic Preservation Officer is also listed below. Operators may also contact city, parish or other local historical societies for assistance, especially when determining if a place or property is eligible for listing on the register.

The following scenarios describe how operators can meet the permit eligibility criteria for protection of historic properties under this permit:

(1) If historic properties are **not identified** in the path of a facility's industrial storm water discharge, or where construction activities are planned to install BMPs to control such discharges (e.g., diversion channels or retention ponds), or

if historic properties **are identified,** but it is determined that they will **not be affected** by the discharge, or construction of BMPs to control the discharge,

then the operator has met the permit eligibility criteria.

(2) If historic properties **are identified** in the path of a facility's industrial storm water discharge, or where construction activities are planned for the installation of BMPs to control such discharges, and it is determined that **there is the potential** to adversely affect the property, the operator can still meet the permit eligibility criteria if he/she obtains and complies with a written agreement with the State Historic Preservation Officer, which outlines measures that the operator will follow to mitigate or prevent those adverse effects. The contents of such a written agreement must be included in the facility's storm water pollution prevention plan.

The term "adverse effects" includes, but is not limited to, damage, deterioration, alteration, or destruction of the historic property or place. LDEQ encourages operators to contact the appropriate State or Tribal Historic Preservation Officer as soon as possible in the event of a potential adverse effect to a historic property.

Operators are reminded that they must comply with all applicable State, Tribal and local laws concerning the protection of historic properties and places.

I. Internet Information on the National Register of Historic Places

An electronic listing of the "National Register of Historic Places," as maintained by the National Park Service on its National Register Information System (NRIS), can be accessed on the Internet at http://www.google.com/search?sourceid=navclient&aq=t&ie=UTF-8&rls=GGLR,GGLR:2005-40,GGLR:en&q=NRHP.

II. Louisiana State Historic Preservation Officer (SHPO)

Louisiana, SHPO, Office of Cultural Development, P.O. Box 44247, Baton Rouge, LA 70804-4247. For questions contact the Section 106 Review Coordinator, Telephone: (225) 342-8170.

III. Louisiana Tribes and Their Historic Preservation Officers

For questions related to identifying and protecting tribal cultural resources, operators should contact tribal leaders. A list of Louisiana Tribes and Their Historic Preservation Officers can be found at http://www.crt.state.la.us/archaeology/homepage/NatAmContacts.doc. LDEQ does not have the authority to issue LPDES permits for activities on federal Native American lands.

ADDENDUM D

LIST OF ADDRESSES FOR LDEQ OFFICES

CURRENT ADDRESSES

Enforcement Division
Office of Environmental Compliance
Department of Environmental Quality
P. O. Box 4312
Baton Rouge, Louisiana 70821-4312
Telephone: (225) 219-3715

Mailing Addresses For Regional Offices	Jurisdictional Parishes For Each Regional Office
Acadiana Regional Office Surveillance Division Office of Environmental Compliance 111 New Center Drive Lafayette, Louisiana 70508 (337) 262-5584	Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary, Vermilion
Capital Regional Office Surveillance Division Office of Environmental Compliance P.O. Box 4312 Baton Rouge, Louisiana 70821-4312 (225) 219-3600	Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (East of the Atchafalaya River), Iberville, Livingston, Pointe Coupee, St. Helena, St. James, St. Martin (East of the Atchafalaya River), Tangipahoa, West Baton Rouge, West Feliciana
Northeast Regional Office Surveillance Division Office of Environmental Compliance 1823 Highway 546 West Monroe, Louisiana 71292 (318) 362-5439	Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, La Salle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll, Winn
Northwest Regional Office Surveillance Division Office of Environmental Compliance 1525 Fairfield Avenue, Room 520 Shreveport, Louisiana 71130 (318) 676-7476	Bienville, Bossier, Caddo, Claiborne, De Soto, Natchitoches, Red River, Sabine, Webster
Southeast Regional Office Surveillance Division Office of Environmental Compliance 201 Evans Road, Bldg. 4, Suite 420 New Orleans, LA 70123-5230 (504) 736-7701	Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Terrebonne, Washington
Southwest Regional Office Surveillance Division Office of Environmental Compliance 1301 Gadwall Street Lake Charles, Louisiana 70615-5176 (337) 491-2667	Allen, Beauregard, Calcasieu, Cameron,