

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water Quality Regulations**

**Chapter 3. Permits**

**§ 301. Scope**

\* \* \*

[See Prior Text in A-D.1]

2. except as otherwise provided in this Chapter, storm sewer systems including canals and pumping stations operated and maintained by local, state, or federal agencies solely for the purposes of conveyance of storm water runoff, unless a particular storm water discharge has been identified by the office as a significant contributor to pollution; and the operator of such discharge has been notified of such determination. Such storm sewer systems are considered to be waters of the state and any facility or activity discharging into storm sewer systems shall be required to have permits according to the requirements of these regulations;

\* \* \*

[See Prior Text in D.3-N]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water Quality Regulations**

**Chapter 23. The Louisiana Pollutant Discharge Elimination System (LPDES) Program**

**Subchapter B. Permit Application and Special LPDES Program Requirements**

**§2341. Storm Water Discharges**

A. Permit Requirement

\* \* \*

[See Prior Text In A.1-8]

9. ~~On and after October 1, 1994, dischargers composed entirely of storm water, that are not otherwise already required by LAC 33:IX.2341.A.1 to obtain a permit, shall be required to apply for and obtain a permit according to the application requirements in LAC 33:IX.2341.G.~~ The state administrative authority may not require a permit for discharges of storm water as provided in Subsection LAC 33:IX.2341.A.2 of this Section or agricultural storm water runoff, which is exempted from the definition of point source at LAC 33:IX.2313 and 2315.

a. On and after October 1, 1994, for discharges composed entirely of storm water for which a permit is not required by Subsection A.1 of this Section, operators shall be required to obtain an LPDES permit only if:

i. the discharge is from a small MS4, as defined in Subsection B.17 of this Section, required to be regulated in accordance with LAC 33:IX.2347;

ii. the discharge is a storm water discharge associated with small construction activity in accordance with Subsection B.15 of this Section;

iii. either the state administrative authority or the EPA regional administrator determines that storm water controls are needed for the discharge based on wasteload allocations that are part of *total maximum daily loads* (TMDLs) that address the pollutant(s) of concern; or

iv. either the state administrative authority or the EPA regional administrator determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.

b. Operators of small MS4s designated in accordance with Subsection A.9.a.i, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with LAC 33:IX.2348 - 2350. Operators of nonmunicipal sources designated in accordance with Subsection A.9.a.ii, iii, and iv of this Section shall seek coverage under an LPDES permit in accordance with Subsection C.1 of this Section.

c. Operators of storm water discharges designated in accordance with Subsection A.9.a.iii and iv of this Section shall apply to the Office of Environmental Services, Permits Division for a permit within 180 days of receipt of notice, unless permission for a later

date is granted by the department.

B. Definitions

\* \* \*

[See Prior Text in B.1-4]

a. located in an incorporated place with a population of 250,000 or more as determined by the ~~latest Decennial~~ 1990 Census by the Bureau of Census (LAC 33:IX.Chapter 23.Appendix F); or

\* \* \*

[See Prior Text in B.4.b-7]

a. located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the ~~latest Decennial~~ 1990 Census by the Bureau of Census (LAC 33:IX.Chapter 23.Appendix G); or

\* \* \*

[See Prior Text In B.7.b-14.i]

j. construction activity including clearing, grading, and excavation activities, ~~except~~ operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more; and

k. facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25, ~~(and which are not otherwise included within categories in LAC 33:IX.2341.B.14.b-j) ;.~~

~~15. *Uncontrolled Sanitary Landfill* a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on or runoff controls established pursuant to subtitle D of the Solid Waste Disposal Act. Storm Water Discharge Associated with Small Construction Activity<sup>3/4</sup>~~

a. the discharge 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 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 and 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. The state administrative authority may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:

i. the value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M Street, SW,

Washington, DC 20460. An operator must certify to the state administrative authority that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

ii. storm water controls are not needed based on a TMDL established by the department **or by EPA and approved by EPA** that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this Clause, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the state administrative authority that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis; or

b. the discharge from any other construction activity designated by the state administrative authority or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the state.

<b>Exhibit 1. Summary of Coverage of “Storm Water Discharge Associated with Small Construction Activity” Under the LPDES Storm Water Program</b>	
<u>Automatic Designation: Required Coverage</u>	<u>Construction activities that result in a land disturbance of equal to or greater than one acre and less than five acres. Construction activities disturbing less than one acre if part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and less than five acres (see Subsection B.15.a of this Section).</u>
<u>Potential Designation: Optional Evaluation and Designation by the State Administrative Authority or EPA Regional Administrator</u>	<u>Construction activities that result in a land disturbance of less than one acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants (see Subsection B.15.b of this Section).</u>
<u>Potential Waiver: Waiver from Requirements as Determined by the State Administrative Authority</u>	<u>Any automatically designated construction activity where the operator certifies: (1) a rainfall erosivity factor of less than five, or (2) that the activity will occur within an area where controls are not needed based on a TMDL or, for nonimpaired waters that do not require a TMDL, an equivalent analysis for the pollutant(s) of concern (see Subsection B.15.a of this Section).</u>

16. *Small Municipal Separate Storm Sewer System*<sup>3/4</sup>a municipal separate storm sewer system that:

a. is owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or in accordance with state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state;

b. is not defined as a large or medium municipal separate storm sewer system in accordance with Subsection B.4 and 7 of this Section, or designated under Subsection A.1.e of this Section; and

c. includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

17. Small MS4 ~~3/4~~a small municipal separate storm sewer system.

18. Municipal Separate Storm Sewer System ~~3/4~~a separate storm sewer that is defined as a large, medium, or small municipal separate storm sewer system in accordance with Subsection B.4, 7, and 16 of this Section, or designated under Subsection A.1.e of this Section.

19. MS4 ~~3/4~~a municipal separate storm sewer system.

20. Uncontrolled Sanitary Landfill ~~3/4~~a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on or runoff controls established in accordance with subtitle D of the Solid Waste Disposal Act.

C. Application Requirements for Storm Water Discharges Associated with Industrial Activity and with Small Construction Activity

1. Individual Application. Dischargers of storm water associated with industrial activity and of storm water associated with small construction activity are required to apply for an individual permit, apply for a permit through a group application, or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water ~~which that~~ the state administrative authority is evaluating for designation (see LAC 33:IX.2443.C) under ~~LAC 33:IX.2341~~, Subsection A.1.e of this Section, and is not a municipal separate storm sewer, and ~~which that~~ is not part of a group application described under ~~LAC 33:IX.2341~~, Subsection C.2 of this Section, shall submit an LPDES application in accordance with the requirements of LAC 33:IX.2331 as modified and supplemented by the provisions of the remainder of this ~~p~~Paragraph. Applicants for discharges composed entirely of storm water shall submit Form 1 and Form 2F. Applicants for discharges composed of storm water and non-storm water shall submit Form 1, Form 2C, and Form 2F. Applicants for new sources or new discharges (as defined in LAC 33:IX.2313) composed of storm water and non-storm water shall submit Form 1, Form 2D, and Form 2F.

\* \* \*

[See Prior Text in C.1.a-a.vii]

b. The operator of an existing or new storm water discharge that is associated with industrial activity solely under ~~LAC 33:IX.2341~~, Subsection B.14.j of this Section, or is associated with small construction activity solely under Subsection B.15 of this

Section, is exempt from the requirements of LAC 33:IX.2331.G and ~~LAC 3:IX.2341~~. Subsection C.1.a of this Section. Such operator shall provide a narrative description of:

\* \* \*

[See Prior Text In C.1.b.i- E]

1. Individual Applications-

\* \* \*

[See Prior Text in E.1.a]

b. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, power plant, or uncontrolled sanitary landfill, the permit application ~~requirements are contained in Subsection G of this Section~~ must be submitted to the state administrative authority by March 10, 2003.

\* \* \*

[See Prior Text In E.2-4.c]

5. A permit application shall be submitted to the state administrative authority within ~~60~~ 180 days of notice, unless permission for a later date is granted by the administrative authority (see LAC 33:IX.2443); for:

a. ~~A a storm water discharge which that is determined by the director, or in states with approved NPDES programs, either the state administrative authority or the EPA regional administrator, determines that the discharge to~~ contributes to a violation of a water quality standard or is determined to be a significant contributor of pollutants to waters of the state (see LAC 33:IX.2341, Subsection A.1.e of this Section);

b. ~~A a~~ a storm water discharge subject to LAC 33:IX.2341.C.1.e.

\* \* \*

[See Prior Text in E.6-7.c]

8. Any storm water discharge associated with small construction activity identified in Subsection B.15.a of this Section requires permit authorization by March 10, 2003, unless designated for coverage before then.

9. For any discharge from a regulated small MS4, the permit application made under LAC 33:IX.2348 must be submitted to the state administrative authority:

a. by March 10, 2003, if designated under LAC 33:IX.2347.A.1, unless the MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing schedule (see LAC 33:IX.2348.C.1); or

b. within 180 days of notice, unless the state administrative authority grants a later date, if designated under LAC 33:IX.2347.A.2 (see LAC 33:IX.2348.C.2).

F. Petitions

\* \* \*

[See Prior Text in F.1-3]

4. Any person may petition the state administrative authority for the designation of a large, medium, or small ~~or medium~~ municipal separate storm sewer system as defined in ~~LAC 33:IX.2341~~. Subsection B.4.d or 7.d of this Section.

5. The state administrative authority shall make a final determination on any petition received under this Section within 90 days after receiving the petition, with the exception of petitions to designate a small MS4, in which case the state administrative authority shall make a final determination on the petition within 180 days after its receipt.

G. Conditional Exclusion for *No Exposure* of Industrial Activities and Materials to Storm Water. Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is *no exposure* of industrial materials and activities to rain, snow, snowmelt, and/or runoff and the discharger satisfies the conditions in Subsection G.1-4 of this Section. *No exposure* means that all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.

1. Qualification. To qualify for this exclusion, the operator of the discharge must:

- a. provide a storm-resistant shelter to protect industrial materials and activities from exposure to rain, snow, snowmelt, and/or runoff;
- b. complete and sign (according to LAC 33:IX.2333) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in Subsection G.2 of this Section;
- c. submit the signed certification to the state administrative authority once every five years;
- d. allow the state administrative authority to inspect the facility to determine compliance with the no-exposure conditions;
- e. allow the state administrative authority to make any no-exposure inspection reports available to the public upon request; and
- f. for facilities that discharge through an MS4, upon request, submit a copy of the certification of no exposure to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

2. Industrial Materials and Activities Not Requiring Storm-Resistant Shelter. To qualify for this exclusion, storm-resistant shelter is not required for:

- a. drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak (*sealed* means banded or otherwise secured and without operational taps or valves);
- b. adequately-maintained vehicles used in material handling; and
- c. final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

3. Limitations

- a. Storm water discharges from construction activities identified in Subsection B.14.j and 15 of this Section are not eligible for this conditional exclusion.
- b. This conditional exclusion from the requirement for an LPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be no-exposure discharges, individual permit requirements

should be adjusted accordingly.

c. If circumstances change and industrial materials or activities become exposed to rain, snow, snowmelt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge becomes subject to enforcement for unpermitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

d. Notwithstanding the provisions of this Subparagraph, the state administrative authority retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

4. Certification. The no-exposure certification must require the submission of the following information, at a minimum, to aid the department in determining if the facility qualifies for the no-exposure exclusion:

a. the legal name, address, and phone number of the discharger (see LAC 33:IX.2331.B);

b. the facility name and address, the parish name, and the latitude and longitude where the facility is located;

c. a statement that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

i. using, storing, or cleaning industrial machinery or equipment, and areas where residuals from using, storing, or cleaning industrial machinery or equipment remain;

ii. materials or residuals on the ground or in storm water inlets from spills/leaks;

iii. materials or products from past industrial activity;

iv. material handling equipment (except adequately maintained vehicles);

v. materials or products during loading/unloading or transporting activities;

vi. materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);

vii. materials contained in open, deteriorated, or leaking storage drums, barrels, tanks, and similar containers;

viii. materials or products handled/stored on roads or railways owned or maintained by the discharger;

ix. waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

x. application or disposal of process wastewater (unless otherwise permitted); and

xi. particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow; and

d. the following certification statement, signed in accordance with the signatory requirements of LAC 33:IX.2333:

“I certify under penalty of law that I have read and understand the eligibility requirements

for claiming a condition of no exposure and obtaining an exclusion from LPDES storm water permitting, and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under LAC 33:IX.2341.G.2). I understand that I am obligated to submit a no-exposure certification form once every five years to the state administrative authority and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the state administrative authority, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an LPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

G. H. Application Requirements for Discharges Composed Entirely of Storm Water Under Clean Water Act Section 402(p)(6). Any operator of a point source required to obtain a permit under Subsection A.9 of this Section shall submit an application to the Office of Environmental Services, Permits Division in accordance with the following requirements.

1. Application Deadlines. The operator shall submit an application in accordance with the following deadlines:

a. a discharger which that the state administrative authority determines to contribute to a violation of a water quality standard or that is a significant contributor of pollutants to waters of the state shall apply for a permit to the state administrative authority within 180 days of receipt of notice, unless permission for a later date is granted by the state administrative authority (see LAC 33:IX.2443.C); or

b. all other dischargers shall apply to the state administrative authority no later than August 7, 2001.

2. Application Requirements. The operator shall submit an application in accordance with the following requirements, unless otherwise modified by the state administrative authority:

a. individual application for nonmunicipal discharges (the requirements contained in LAC 33:IX.2341. Subsection C.1 of this Section);

b. application requirements for municipal separate storm sewer discharges (the requirements contained in LAC 33:IX.2341. Subsection D of this Section);

c. notice of intent to be covered by a general permit issued by the state administrative authority (the requirements contained in LAC 33:IX.2345.B.2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:957 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

### §2345. General Permits

\* \* \*

[See Prior Text In A- B.2.d]

e. Discharges other than discharges from publicly owned treatment works, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the state administrative authority, be authorized to discharge under a general permit without submitting a notice of intent where the state administrative authority finds that a notice of intent requirement would be inappropriate. In making such a finding, the state administrative authority shall consider: the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit. The state administrative authority shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

\* \* \*

[See Prior Text In B.2.f- C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

### **§2346. What are the Objectives of the Storm Water Regulations for Small MS4s?**

A. LAC 33:IX.2346-2352 are written in a *readable regulation* format that includes both department guidance, which is not legally binding, as well as code requirements. This format is used to make it easier to understand the regulatory requirements. Like other department regulations, this establishes enforceable legal requirements. For these sections, *I* and *you* refer to the owner/operator. The department has clearly distinguished its recommended guidance from the code requirements by putting the guidance in a separate paragraph headed by the word *guidance*.

B. Under the statutory mandate in section 402(p)(6) of the Clean Water Act, the purpose of this portion of the storm water program is to designate additional sources that need to be regulated to protect water quality and to establish a comprehensive storm water program to regulate these sources. (Because the storm water program is part of the Louisiana Pollutant Discharge Elimination System (LPDES) program, you should also refer to LAC 33:IX.2311, which addresses the broader purpose of the LPDES program.)

C. Storm water runoff continues to harm the nation's waters. Runoff from lands modified by human activities can harm surface water resources in several ways, including by changing natural hydrologic patterns and by elevating pollutant concentrations and loadings. Storm water runoff may contain or mobilize high levels of contaminants, such as sediment, suspended solids,

nutrients, heavy metals, pathogens, toxins, oxygen-demanding substances, and floatables.

D. The department strongly encourages partnerships and the watershed approach as the management framework for efficiently, effectively, and consistently protecting and restoring aquatic ecosystems and protecting public health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§2347. As an Operator of a Small MS4, Am I Regulated Under the LPDES Storm Water Program?**

A. Unless you qualify for a waiver under Subsection C of this Section, you are regulated if you operate a small MS4 including, but not limited to, systems operated by federal, state, tribal, and local governments, including state departments of transportation, and:

1. your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated); or

2. you are designated by the state administrative authority, including where the designation is based upon a petition under LAC 33:IX.2341.F.4.

B. You may be the subject of a petition to the state administrative authority to require an LPDES permit for your discharge of storm water. If the state administrative authority determines that you need a permit, you are required to comply with LAC 33:IX.2348-2350.

C. The state administrative authority may waive the requirements otherwise applicable to you if you meet the criteria of Subsection D or E of this Section. If you receive this waiver, you may subsequently be required to seek coverage under an LPDES permit in accordance with LAC 33:IX.2348.A if circumstances change.

D. The state administrative authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the urbanized area and you meet the following criteria:

1. your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the LPDES storm water program; and

2. if you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, storm water controls are not needed based on wasteload allocations that are part of a department-established *total maximum daily load* (TMDL) that addresses the pollutant(s) of concern.

E. The department may waive permit coverage if your MS4 serves a population under 10,000 and you meet the following criteria:

1. the department has evaluated all waters of the state, including small streams, tributaries, lakes, and ponds, that receive a discharge from your MS4;

2. for all such waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of a **department-established TMDL established by the department or by EPA and approved by EPA** that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

3. for the purpose of this Subsection, the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation), pathogens, oil and grease, and any pollutant that has

been identified as a cause of impairment of any water body that will receive a discharge from your MS4; and

4. the department has determined that future discharges from your MS4 do not have the potential to result in noncompliance with water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§2348. If I Am an Operator of a Regulated Small MS4, How Do I Apply for an LPDES Permit and When Do I Have to Apply?**

A. If you operate a regulated small MS4 under LAC 33:IX.2347, you must seek coverage under an LPDES permit issued by the Department of Environmental Quality, Office of Environmental Services, Permits Division.

B. You must seek authorization to discharge under a general or individual LPDES permit, as follows:

1. if the Office of Environmental Services, Permits Division has issued a general permit applicable to your discharge and you are seeking coverage under the general permit, you must submit a Notice of Intent (NOI) that includes the information on your best management practices and measurable goals required by LAC 33:IX.2349.D. You may file your own NOI or you and other municipalities or governmental entities may jointly submit a NOI. If you want to share responsibilities for meeting the minimum measures with other municipalities or governmental entities, you must submit a NOI that describes which minimum measures you will implement and identify the entities that will implement the other minimum measures within the area served by your MS4. The general permit will explain any other steps necessary to obtain permit authorization;

2. a. if you are seeking authorization to discharge under an individual permit and wish to implement a program under LAC 33:IX.2349, you must submit an application to the Department of Environmental Quality, Office of Environmental Services, Permits Division that includes the information required under LAC 33:IX.2331.F and 2349.D, an estimate of square mileage served by your small MS4, and any additional information that the Permits Division requests. A storm sewer map that satisfies the requirement of LAC 33:IX.2349.B.3.a will satisfy the map requirement in LAC 33:IX.2331.F.7;

b. if you are seeking authorization to discharge under an individual permit and wish to implement a program that is different from the program under LAC 33:IX.2349, you will need to comply with the permit application requirements of LAC 33:IX.2341.D. You must submit both parts of the application requirements in LAC 33:IX.2341.D.1 and 2 by March 10, 2003. You do not need to submit the information required by LAC 33:IX.2341.D.1.b and 2 regarding your legal authority, unless you intend for the permit writer to take such information into account when developing your other permit conditions; and

c. if approved by the Office of Environmental Services, Permits Division, you and another regulated entity may jointly apply under either Subsection B.2.a or b of this Section to be co-permittees under an individual permit;

3. if your small MS4 is in the same urbanized area as a medium or large MS4 with

an LPDES storm water permit and that other MS4 is willing to have you participate in its storm water program, you and the other MS4 may jointly seek a modification of the other MS4 permit to include you as a limited co-permittee. As a limited co-permittee, you will be responsible for compliance with the permit's conditions applicable to your jurisdiction. If you choose this option you will need to comply with the permit application requirements of LAC 33:IX.2341, rather than the requirements of LAC 33:IX.2349. You do not need to comply with the specific application requirements of LAC 33:IX.2341.D.1.c,d, and 2.c (discharge characterization). You may satisfy the requirements in LAC 33:IX.2341.D.1.e and 2.e (identification of a management program) by referring to the other MS4's storm water management program; and

4. Guidance: in referencing an MS4's storm water management program, you should briefly describe how the existing plan will address discharges from your small MS4 or would need to be supplemented in order to adequately address your discharges. You should also explain your role in coordinating storm water pollutant control activities in your MS4 and detail the resources available to you to accomplish the plan.

C. If you operate a regulated small MS4:

1. designated under LAC 33:IX.2347.A.1, you must apply for coverage under an LPDES permit or apply for a modification of an existing LPDES permit under Subsection B.3 of this Section by March 10, 2003, unless your MS4 serves a jurisdiction with a population under 10,000 and the state administrative authority has established a phasing; and

2. designated under LAC 33:IX.2347.A.2, you must apply for coverage under an LPDES permit, or apply for a modification of an existing LPDES permit under Subsection B.3 of this Section within 180 days of notice, unless the state administrative authority grants a later date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§2349. As an Operator of a Regulated Small MS4, What Will My LPDES MS4 Storm Water Permit Require?**

A. Your LPDES MS4 permit will require, at a minimum, that you develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable (MEP), to protect water quality and to satisfy the appropriate water quality requirements of the Louisiana Water Control Law and the federal Clean Water Act. Your storm water management program must include the minimum control measures described in Subsection B of this Section unless you apply for a permit under LAC 33:IX.2341.D. For purposes of this Section, narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the MEP) and to protect water quality. Implementation of best management practices consistent with the provisions of the storm water management program required in accordance with this Section and the provisions of the permit required in accordance with LAC 33:IX.2348 constitutes compliance with the standard of reducing pollutants to the maximum extent practicable. Your state administrative authority will specify a time period of up to five years from the date of permit issuance for you to develop and implement your program.

B. Minimum Control Measures

### 1. Public Education and Outreach on Storm Water Impacts

a. You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

b. Guidance: You may use storm water educational materials provided by your state, tribe, EPA, environmental, public interest or trade organizations, or other MS4s. The public education program should inform individuals and households about the steps they can take to reduce storm water pollution, such as ensuring proper septic system maintenance, ensuring the proper use and disposal of landscape and garden chemicals including fertilizers and pesticides, protecting and restoring riparian vegetation, and properly disposing of used motor oil or household hazardous wastes. The department recommends that the program inform individuals and groups how to become involved in local stream and beach restoration activities as well as activities that are coordinated by youth service and conservation corps or other citizen groups. The department recommends that the public education program be tailored, using a mix of locally appropriate strategies, to target specific audiences and communities. Examples of strategies include distributing brochures or fact sheets, sponsoring speaking engagements before community groups, providing public service announcements, implementing educational programs targeted at school age children, and conducting community-based projects such as storm drain stenciling and watershed and beach cleanups. In addition, the department recommends that some of the materials or outreach programs be directed toward targeted groups of commercial, industrial, and institutional entities likely to have significant storm water impacts. Examples of this would include providing information to restaurants on the impact of grease clogging storm drains and to garages on the impact of oil discharges. You are encouraged to tailor your outreach program to address the viewpoints and concerns of all communities, particularly minority and disadvantaged communities, as well as any special concerns relating to children.

### 2. Public Involvement/Participation

a. You must, at a minimum, comply with state, tribal, and local public notice requirements when implementing a public involvement/participation program.

b. Guidance: The department recommends that the public be included in developing, implementing, and reviewing your storm water management program and that the public participation process should make efforts to reach out and engage all economic and ethnic groups. Opportunities for members of the public to participate in program development and implementation include serving as citizen representatives on a local storm water management panel, attending public hearings, working as citizen volunteers to educate other individuals about the program, assisting in program coordination with other pre-existing programs, or participating in volunteer monitoring efforts. (Citizens should obtain approval where necessary for lawful access to monitoring sites.)

### 3. Illicit Discharge Detection and Elimination

a. You must develop, implement, and enforce a program to detect and eliminate illicit discharges (see LAC 33:IX.2341.B.2) into your small MS4.

b. You must:

i. develop, if not already completed, a storm sewer system map showing the location of all outfalls and the names and location of all waters of the state that receive discharges from those outfalls;

ii. to the extent allowable under state, tribal, or local law,

effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;

iii. develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system; and

iv. inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

c. You need to address the following categories of non-storm water discharges or flows (e.g., illicit discharges) only if you identify them as significant contributors of pollutants to your small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the state).

d. Guidance: The department recommends that the plan to detect and address illicit discharges include the following four components: procedures for locating priority areas likely to have illicit discharges; procedures for tracing the source of an illicit discharge; procedures for removing the source of the discharge; and procedures for program evaluation and assessment. The department recommends visually screening outfalls during dry weather and conducting field tests of selected pollutants as part of the procedures for locating priority areas. Illicit discharge education actions may include storm drain stenciling, a program to promote, publicize, and facilitate public reporting of illicit connections or discharges, and distribution of outreach materials.

#### 4. Construction Site Storm Water Runoff Control

a. You must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the state administrative authority waives requirements for storm water discharges associated with small construction activity in accordance with LAC 33:IX.2341.B.15.a, you are not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites.

b. Your program must include the development and implementation of, at a minimum:

i. an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under state, tribal, or local law;

ii. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

iii. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;

iv. procedures for site plan review that incorporate consideration of potential water quality impacts;  
v. procedures for receipt and consideration of information submitted by the public; and  
vi. procedures for site inspection and enforcement of control measures.

c. Guidance: Examples of sanctions to ensure compliance include non-monetary penalties, fines, bonding requirements, and/or permit denials for noncompliance. The department recommends that procedures for site plan review include the review of individual preconstruction site plans to ensure consistency with local sediment and erosion control requirements. Procedures for site inspections and enforcement of control measures could include steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. You are encouraged to provide appropriate educational and training measures for construction site operators. You may wish to require a storm water pollution prevention plan for construction sites within your jurisdiction that discharge into your system. See LAC 33:IX.2361.R (LPDES permitting authorities' option to incorporate qualifying state, tribal, and local erosion and sediment control programs into LPDES permits for storm water discharges from construction sites). Also, see LAC 33:IX.2350.B. (The state administrative authority may recognize that another government entity, including the administrative authority, may be responsible for implementing one or more of the minimum measures on your behalf.)

#### 5. Post-Construction Storm Water Management in New Development and Redevelopment

a. You must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your small MS4. Your program must ensure that controls are in place that would prevent or minimize water quality impacts.

b. You must:

i. develop and implement strategies that include a combination of structural and/or non-structural BMPs appropriate for your community;

ii. use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under state, tribal, or local law; and

iii. ensure adequate long-term operation and maintenance of BMPs.

c. Guidance: If water quality impacts are considered from the beginning stages of a project, new development and, potentially, redevelopment provide more opportunities for water quality protection. The department recommends that the BMPs chosen be appropriate for the local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions. In choosing appropriate BMPs, the department encourages you to participate in locally-based watershed planning efforts that attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, the department recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies

and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs, and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, you should provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters, and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. The department recommends that you ensure the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design, construction, or operation and maintenance. Storm water technologies are constantly being improved, and the department recommends that your requirements be responsive to these changes, developments, or improvements in control technologies.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

a. You must develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are available from EPA, your state, tribe, or other organizations, your program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

b. Guidance: The department recommends that, at a minimum, you consider the following in developing your program: maintenance activities, maintenance schedules, and long-term inspection procedures for structural and non-structural storm water controls to reduce floatables and other pollutants discharged from your separate storm sewers; controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas operated by you, and waste transfer stations; procedures for properly disposing of waste removed from the separate storm sewers and areas listed above (such as dredge spoil, accumulated sediments, floatables, and other debris); and ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices. Operation and maintenance should be an integral component of all storm water management programs. This measure is intended to improve the efficiency of these programs and require new programs where necessary. Properly developed and implemented operation and maintenance programs reduce the risk of water quality problems.

C. If an existing qualifying local program requires you to implement one or more of the

minimum control measures of Subsection B of this Section, the state administrative authority may include conditions in your LPDES permit that direct you to follow that qualifying program's requirements rather than the requirements of Subsection B of this Section. A qualifying local program is a local, state, or tribal municipal storm water management program that imposes, at a minimum, the relevant requirements of Subsection B of this Section.

D. 1. In your permit application (either a notice of intent for coverage under a general permit or an individual permit application) you must identify and submit to the Office of Environmental Services, Permits Division the following information:

a. the BMPs that you or another entity will implement for each of the storm water minimum control measures at Subsection B.1-6 of this Section;

b. the measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, interim milestones, and the frequency of the action; and

c. the person or persons responsible for implementing or coordinating your storm water management program.

2. If you obtain coverage under a general permit, you are not required to meet any measurable goal(s) identified in your notice of intent in order to demonstrate compliance with the minimum control measures in Subsection B.3-6 of this Section unless, prior to submitting your NOI, the Office of Environmental Services, Permits Division has provided or issued a menu of BMPs that addresses each such minimum measure. Even if that office does not issue the menu of BMPs, however, you still must comply with other requirements of the general permit, including good faith implementation of BMPs designed to comply with the minimum measures.

3. Guidance: Either EPA or the department will provide a menu of BMPs. You may choose BMPs from the menu or select others that satisfy the minimum control measures.

E. 1. You must comply with any more stringent effluent limitations in your permit, including permit requirements that modify, or are in addition to, the minimum control measures based on an approved TMDL or equivalent analysis. The department may include such more stringent limitations based on a TMDL or equivalent analysis that determines such limitations are needed to protect water quality.

2. Guidance: EPA has strongly recommended that until the evaluation of the storm water program in LAC 33:IX.2352, no additional requirements beyond the minimum control measures be imposed on regulated small MS4s without the agreement of the operator of the affected small MS4, except where an approved TMDL or equivalent analysis provides adequate information to develop more specific measures to protect water quality.

F. You must comply with other applicable LPDES permit requirements, standards, and conditions established in the individual or general permit, developed consistently with the provisions of LAC 33:IX.2355-2369, as appropriate.

#### G. Evaluation and Assessment

1. Evaluation. You must evaluate program compliance, the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals. [ Note: The state administrative authority may determine monitoring requirements for you in accordance with state/tribal monitoring plans appropriate to your watershed. Participation in a group monitoring program is encouraged.]

2. Recordkeeping. You must keep records required by the LPDES permit for at least three years. You must submit your records to the state administrative authority only when specifically asked to do so. You must make your records, including a description of your storm

water management program, available to the public at reasonable times during regular business hours (see LAC 33:IX.2323 for confidentiality provision). You may assess a reasonable charge for copying. You may require a member of the public to provide advance notice.

3. Reporting. Unless you are relying on another entity to satisfy your LPDES permit obligations under LAC 33:IX.2350.A, you must submit annual reports to the state administrative authority for your first permit term. For subsequent permit terms, you must submit reports in years two and four unless the state administrative authority requires more frequent reports. Your report must include:

a. the status of compliance with permit conditions, an assessment of the appropriateness of your identified best management practices, and progress towards achieving your identified measurable goals for each of the minimum control measures;

b. results of information collected and analyzed, including monitoring data, if any, during the reporting period;

c. a summary of the storm water activities you plan to undertake during the next reporting cycle;

d. a change in any identified best management practices or measurable goals for any of the minimum control measures; and

e. notice that you are relying on another governmental entity to satisfy some of your permit obligations (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§2350. As an Operator of a Regulated Small MS4, May I Share the Responsibility to Implement the Minimum Control Measures with Other Entities?**

A. You may rely on another entity to satisfy your LPDES permit obligations to implement a minimum control measure if:

1. the other entity, in fact, implements the control measure;

2. the particular control measure, or component thereof, is at least as stringent as the corresponding LPDES permit requirement; and

3. the other entity agrees to implement the control measure on your behalf. In the reports you must submit under LAC 33:IX.2349.G.3, you must also specify that you rely on another entity to satisfy some of your permit obligations. If you are relying on another governmental entity regulated under LAC 33:IX.Chapter 23 to satisfy all of your permit obligations, including your obligation to file periodic reports required by LAC 33:IX.2349.G.3, you must note that fact in your NOI, but you are not required to file the periodic reports. You remain responsible for compliance with your permit obligations if the other entity fails to implement the control measure (or component thereof). Therefore, the department encourages you to enter into a legally binding agreement with that entity if you want to minimize any uncertainty about compliance with your permit.

B. In some cases the Office of Environmental Services, Permits Division may recognize, either in your individual LPDES permit or in an LPDES general permit, that another governmental entity is responsible under an LPDES permit for implementing one or more of the minimum control measures for your small MS4 or that the department itself is responsible. Where the Office of Environmental Services, Permits Division does so, you are not required to include such minimum

control measure(s) in your storm water management program (e.g., if a state or tribe is subject to an LPDES permit that requires it to administer a program to control construction site runoff at the state or tribal level and that program satisfies all of the requirements of LAC 33:IX.2349.B.4, you could avoid responsibility for the construction measure, but would be responsible for the remaining minimum control measures). Your permit may be reopened and modified to include the requirement to implement a minimum control measure if the entity fails to implement it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§2351. As an Operator of a Regulated Small MS4, What Happens if I Don't Comply with the Application or Permit Requirements in LAC 33:IX.2348-2350?**

In accordance with LAC 33:IX.2355.A violators of provisions of the LPDES system or permit conditions are subject to enforcement actions and penalties. If you are covered as a co-permittee under an individual permit or under a general permit by means of a joint notice of intent, you remain subject to the enforcement actions and penalties for the failure to comply with the terms of the permit in your jurisdiction, except as set forth in LAC 33:IX.2350.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

**§2352. Will the Small MS4 Storm Water Program Regulations at LAC 33:IX.2347-2351 Change in the Future?**

EPA will evaluate the small MS4 regulations at LAC 33:IX.2347-2351 after December 10, 2012, and recommend any necessary revisions. Required revisions will then be incorporated into the LPDES program by the Office of Environmental Services, Permits Division. (EPA intends to conduct an enhanced research effort and compile a comprehensive evaluation of the NPDES MS4 storm water program. EPA will re-evaluate the regulations based on data from the NPDES MS4 storm water program, from research on receiving water impacts from storm water, and the effectiveness of BMPs, as well as other relevant information sources.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

**Subchapter C. Permit Conditions**

**§2361. Establishing Limitations, Standards, and Other Permit Conditions**

In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the following requirements when applicable.

\* \* \*

[See Prior Text In A-K.1]

2. ~~numeric effluent limitations are infeasible; or~~ authorized under section 402(p) of the CWA for the control of storm water discharges;
3. the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA; ~~or~~
4. numeric effluent limitations are infeasible.

\* \* \*

[See Prior Text In L-Q]

#### R. Qualifying State, Tribal, or Local Programs

1. For storm water discharges associated with small construction activity identified in LAC 33:IX.2341.B.15, the state administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. When a qualifying state, tribal, or local program does not include one or more of the elements in this Subsection, the state administrative authority must include those elements as conditions in the permit. A qualifying state, tribal, or local erosion and sediment control program is one that includes:

- a. requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
- b. requirements for construction site operators to control waste, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste, at the construction site that may cause adverse impacts to water quality;
- c. requirements for construction site operators to develop and implement a storm water pollution prevention plan. (A storm water pollution prevention plan includes site descriptions, descriptions of appropriate control measures, copies of approved state, tribal, or local requirements, maintenance procedures, inspection procedures, and identification of non-storm water discharges); and
- d. requirements to submit a site plan for review that incorporates consideration of potential water quality impacts.

2. For storm water discharges from construction activity identified in LAC 33:IX.2341.B.14.j, the state administrative authority may include permit conditions that incorporate qualifying state, tribal, or local erosion and sediment control program requirements by reference. A qualifying state, tribal, or local erosion and sediment control program is one that includes the elements listed in Subsection R.1 of this Section and any additional requirements necessary to achieve the applicable technology-based standards of *best available technology* and *best conventional technology* based on the best professional judgment of the permit writer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

#### **Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination of Permits**

**§2383. Modification or Revocation and Reissuance of Permits**

When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2355), receives a request for modification or revocation and reissuance under LAC 33:IX.2407, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.2407.B and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.2407.B.2). If cause does not exist under this Section or LAC 33:IX.2385, the state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2385 for minor modifications the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in LAC 33:IX.Chapter 23.Subchapters E and F followed.

\* \* \*

[See Prior Text In A-A.13]

14. Reserved For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in LAC 33:IX.2349.B when:

- a. the permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s); and
- b. the other entity fails to implement measure(s) that satisfy the requirement(s).

\* \* \*

[See Prior Text In A.15- B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

**Subchapter F. Specific Decisionmaking Procedures Applicable to LPDES Permits****§2443. Permits Required on a Case-by-Case Basis**

\* \* \*

[See Prior Text in A-B]

C. Prior to a case-by-case determination that an individual permit is required for a storm water discharge under this Section (see LAC 33:IX.2341.A.1.e, C.1.e, and G.1.a), the state administrative authority may require the discharger to submit a permit application or other information regarding the discharge under Section 308 of the CWA. In requiring such information,

the state administrative authority shall notify the discharger in writing and shall send an application form with the notice. The discharger must apply for a permit ~~under LAC 33:IX.2341.A.1.e and C.1.e within 60 days of notice or under LAC 33:IX.2341.G.1.a within 180 days of notice~~, unless permission for a later date is granted by the state administrative authority. The question whether the initial designation was proper will remain open for consideration during the public comment period under LAC 33:IX.2417 and in any subsequent hearing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26: