

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF
WINTER STORM
OF JANUARY 16-19, 2018**

AGENCY INTEREST NO. 210125

**DECLARATION OF EMERGENCY
AND ADMINISTRATIVE ORDER**

Pursuant to the authority granted to me by Louisiana Revised Statutes 30:2001 *et seq.*, and particularly La. R.S. 30:2033 and 2011(D)(6), I hereby make the following findings, declaration and order effective as of January 16, 2018.

FINDINGS AND DECLARATION

1. On January 16, 2018, a strong cold front moved into and across the state causing freezing precipitation and low temperatures. The freezing temperatures resulted in an accumulation of ice on roadways and hazardous driving conditions, and caused major road closures throughout the state. This event shall be referred to as the "Winter Storm."

2. By State of Louisiana Proclamation No. 14 JBE 2018, issued on January 17, 2018, Governor John Bel Edwards, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. R.S. 29:271 *et seq.*, declared that a state of emergency exists statewide as a result of the extreme cold weather conditions

3. I find that the Winter Storm has created conditions that require immediate action to prevent irreparable damage to the environment and serious threats to life or safety.

WHEREFORE, I hereby declare that an emergency exists, and that the following measures are necessary to prevent irreparable damage to the environment and serious threats to life or safety.

ORDER

Unless otherwise specified, each of the provisions below applies statewide (Emergency Area).

§ 1. Wastewater Treatment Systems

a. Upset Provisions

Permittees with Louisiana Pollutant Discharge Elimination System (LPDES) permits should consider activating the upset provisions in their permits. LAC 33:IX.2701.N.1 defines upset as the following:

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.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of LAC 33:IX.2701.N.3 are met.

b. Unpermitted Emergency Discharges

New emergency discharges, which are eligible for coverage under the LPDES General Permit LAG420000, and are located in an area that has been included in this order are considered provisionally covered under the terms and conditions of the permit immediately and fully covered 72 hours after the postmark date or upon hand-delivery of a complete and correct Notice of Intent (form STED-G). The Notice of Intent shall be submitted no later than 10 business days after commencing discharge. Any such discharges must comply with all applicable schedules in the LPDES Permit LAG420000, Short-Term and Emergency Discharges General Permit. The General Permit effluent limitations and requirements can be viewed at <http://deq.louisiana.gov/assets/docs/Permits/LAG420000.pdf>. The application form, STED-G, can be found at http://deq.louisiana.gov/assets/docs/Permits/STED-G_2017.doc or by calling the Office of Environmental Services at (225) 219-9371.

Authorization to discharge under the LAG420000 shall terminate on the date identified by the LAG420000 permit authorization letter. Wastewater types covered under the

LAG420000 include but are not limited to: treated sanitary wastewater and/or dewatering of oxidation ponds discharges; gray water; stormwater discharges; hydrostatic test wastewater; utility wash waters, including but not limited to pavement and building washdown waters with or without soaps and detergents; equipment and vehicle wash water; potable water treatment plant filter backwash, clarifier blowdown, water softening, iron and manganese removal, and disinfection of source water; discharges of landfill wastewater from a construction/demolition debris and woodwaste landfill related to post-emergency clean up; non-contact stormwater discharges from a construction/demolition debris and woodwaste landfill related to post-emergency clean up; and emergency discharges related to the preparation for natural disasters or the clean-up of natural disasters or in emergency situations, such as hurricanes, fires, or explosions.

c. Additional general permits may be available for other discharges, such as petroleum tank dewatering, hydrostatic test wastewater, or discharges of storm water associated with industrial or construction activities. General permits and associated Notices of Intent may be viewed at: <http://deq.louisiana.gov/page/lpdes-water-permits>. To obtain hard copies of the Notice of Intents or the General Permits, or for any additional questions, call the Office of Environmental Services at (225) 219-9371.

§2. Solid Waste Management

Debris resulting from the s Winter Storm shall be managed in accordance with the LDEQ Comprehensive Plan for Disaster Clean-up and Debris Management (<http://www.deq.louisiana.gov/portal/portals/0/news/pdf/DEQDebrisPlan-8-25-FINAL.pdf>) (“the Debris Management Plan”).

§3. Hazardous Waste

Hazardous waste generated as a result of the Winter Storm must be separated from other waste generated by the Winter Storm and disposed of at a permitted hazardous waste disposal facility. Household wastes collected during this event, which are exempt from the regulatory requirements applicable to hazardous wastes, must be managed not only in an environmentally sound manner but also in accordance with the appropriate LDEQ rules and regulations governing the storage and processing of this type of waste.

§ 4. Open Burning

a. The Department authorizes local governments or their agents to conduct the open burning of Storm-generated trees, leaves, vines, twigs, branches, grass, and other vegetative debris within or outside of the Emergency Area, without prior notice to the Department and provided that the provisions of LAC 33:III.1109.D.6. are met, and it is consistent with the Debris Management Plan. This Order does not authorize any other outdoor burning of non-listed debris streams. Within seven (7) days of commencing any such burning, the local government or its agent shall notify the Department in writing, describing the general nature of the materials burned, stating the location and method of burning, and providing the name, address, and telephone number of the representative of the local government to contact concerning the work and the anticipated duration of the burning event. This Order does not relieve the local government or the agent from any requirement to obtain an open burning authorization from any other governmental entity empowered to grant such authorizations. Notwithstanding the provisions of this paragraph, the burning of asbestos-containing materials, construction and demolition debris, solid waste (other than vegetative debris) or hazardous waste is prohibited.

b. The Department will consider, on an individual basis, requests for approval for open burning, by persons other than local governments or their agents, of Storm-generated trees, leaves, vines, twigs, branches, grass, and other vegetative debris. Any such burning approved by the Department must be conducted in compliance with the requirements of LAC 33:III.1109.D.6.

§ 5. Air Pollution Sources Other than Open Burning

a. The Department authorizes the minor repair of any previously permitted stationary source of air pollution that was damaged by the Storm to restore it to its previously permitted condition without prior notice to the Department. Within thirty (30) days of commencing such repairs, however, the permittee shall notify the Department in writing, stating the location and nature of the work and providing the name, address, and telephone number of the representative of the permittee to contact concerning the work. Minor repairs are repairs that would not constitute reconstruction under any definition of 40 CFR Part 60 or 63 and that could not affect potential to emit any pollutant, and that would not constitute a violation of any other provision of the NSPS, MACT, or NESHAP standards. Repairs that would constitute reconstruction under any definition

of 40 CFR Part 60 or 63, or repairs that could affect potential to emit any pollutant are not authorized by this Order.

b. The Department will consider, on an individual basis, requests for approval for, but not limited to, the following sources of air pollution:

i. temporary air pollution control devices, such as portable flares, used for vessel and pipeline segment purging and the limited operation of facilities with damaged vapor control equipment;

ii. portable storage tanks, used for interim storage while damaged equipment is being repaired; and

iii. repairs, other than the minor repairs addressed in Section 5.a above, of permitted stationary sources that have been damaged by the Storm, provided that the sources are restored or replaced with equipment that is identical or the functional equivalent, to meet permit conditions.

Requests should be directed to the Office of Environmental Services, Air Permits Division.

c. The Department authorizes temporary gasoline and diesel fueling stations at regulated industrial facilities for the express purpose of refueling onsite vehicles essential for plant operations and vehicles of employees.

d. The throughput of any temporary gasoline storage vessels used exclusively for providing gasoline to employees of the tank operator will not be counted toward the annual or thirty (30) day average throughput for purposes of determining the applicability of control requirements under LAC 33:III.2131. This subparagraph applies only to gasoline provided to employees at or below the operator's cost. This subparagraph does not exempt the operator from any other applicable regulatory requirements, specifically including, but not limited to, the spill prevention and control requirements of the Louisiana Water Quality Regulations (LAC 33: Part IX).

e. LAC 33:III.507.J.2 provides that an upset condition constitutes an affirmative defense to an action brought for noncompliance with technology-based emissions limitations. LAC 33:III.507.J.2.d requires the permittee to notify the Department in accordance with LAC 33:I.Chapter 39 when emissions limitations are exceeded due to an upset. Because of the circumstances caused by the Storm and the need to apply facility resources to quickly repair and correct conditions caused by the upset, the Department extends the prompt notification deadline

to seven (7) days, provided the exceedance does not cause an “emergency condition” as defined in LAC 33:I.3905.

f. In accordance with LAC 33:III.501.B.1.e, owners or operators may bring on site and utilize nonroad engines, including, but not limited to, temporary portable electrical power generators, firewater pumps, and air compressors, as necessary. “Nonroad engine” is defined in LAC 33:III.502.A. Note that an internal combustion engine is not a nonroad engine if it remains or will remain at a location for more than 12 consecutive months. A location is any single site at a building, structure, facility, or installation. Any engine that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced shall be included in calculating the consecutive time period.

g. For permitted internal combustion engines operated in direct response to the Storm, including, but not limited to, electrical power generators, firewater pumps, and air compressors, the Department suspends any limitations on operating time imposed by the applicable permit until such time as normal operations are restored or until the expiration of this Order, whichever is earlier. Emissions from the operation of such engines operated pursuant to this Order shall not count toward applicable ton per year limitations. All other provisions applicable to the engines shall continue to apply.

i. The owner/operator shall notify the Office of Environmental Services, Air Permits Division, in writing, by no later than thirty days after the effective date of this Declaration of Emergency and Administrative Order, that operation of permitted internal combustion engines in excess of permitted limits has occurred or is anticipated. Relevant emission point and permit numbers should be included in this correspondence.

ii. A report summarizing the operating time of permitted internal combustion engines in direct response to the Storm and the resultant criteria and toxic air pollutant emissions shall be submitted to the Office of Environmental Services, Air Permits Division, by no later than ninety days after the effective date of this Declaration of Emergency and Administrative Order, and quarterly thereafter until the expiration of this Order, or any extensions or revisions thereof.

h. The Department suspends applicable limitations on throughput and emissions imposed on fuel loading racks by air quality permits for fourteen (14) calendar days following the effective date of this Order in order to maximize fuel availability in response to the Storm.

Emissions from loading operations during this period shall not count toward applicable ton per year limitations.

i. The owner/operator shall notify the Office of Environmental Services, Air Permits Division by no later than thirty days after the effective date of this Declaration of Emergency and Administrative Order, that throughput in excess of permitted limits has occurred or is anticipated. Relevant emission point and permit numbers should be included in this correspondence.

ii. A report summarizing the throughput in excess of permitted limits and the resultant criteria and toxic air pollutant emissions shall be submitted to the Office of Environmental Services, Air Permits Division, by no later than ninety days after the effective date of this Declaration of Emergency and Administrative Order, and quarterly thereafter until the expiration of this Order, or any extensions or revisions thereof.

i. To accommodate the distribution of liquid materials, the department suspends throughput and emissions limitations imposed on transfer operations, including tank truck and railcar loading racks and marine tank vessel loading operations, through the expiration of this Order provided that compliance with all applicable federal and state regulations pertaining to the transfer of the materials loaded (e.g., LAC 33:III.2107, LAC 33:III.2108, 40 CFR 63 Subpart H, 40 CFR 63 Subpart Y) is maintained.

i. The owner/operator shall notify the Office of Environmental Services, Air Permits Division by no later than thirty days after the effective date of this Declaration of Emergency and Administrative Order, that throughput in excess of permitted limits has occurred or is anticipated. Relevant emission point and permit numbers should be included in this correspondence.

ii. A report summarizing the throughput in excess of permitted limits and the resultant criteria and toxic air pollutant emissions shall be submitted to the Office of Environmental Services, Air Permits Division, by no later than ninety days after the effective date of this Declaration of Emergency and Administrative Order, and quarterly thereafter until the expiration of this Order, or any extensions or revisions thereof.

j. To accommodate the storage and/or distribution of liquid materials, owners or operators may change the service of permitted storage vessels without prior approval of the department provided compliance with all applicable federal and state regulations pertaining to

the storage of the material in question (e.g., LAC 33:III.2103, 40 CFR 60 Subpart Kb) is maintained. All changes of tank service effected pursuant to this paragraph shall be documented and reported to the Office of Environmental Services, Air Permits Division, by no later than thirty days after the effective date of this Declaration of Emergency and Administrative Order, and quarterly thereafter until the expiration of this Order, or any extensions or revisions thereof.

k. In the event of a natural gas shortage, the Department approves the use of plant fuel gas in combustion sources. Emissions from the operation of such combustion sources operated pursuant to this Order shall not count toward applicable ton per year limitations. Nothing in this provision overrides a provision imposed directly on the source by the EPA. All other provisions applicable to the combustion sources shall continue to apply.

i. The owner/operator shall notify the Office of Environmental Services, Air Permits Division, in writing, by no later than thirty days after the effective date of this Declaration of Emergency and Administrative Order, that the use of plant fuel gas and the operation of permitted combustion sources in excess of permitted limits has occurred or is anticipated. Relevant emission point and permit numbers should be included in this correspondence. The owner/operator shall also include the cause of the natural gas shortage.

ii. A report summarizing the operating time of permitted combustion sources and the resultant criteria and toxic air pollutant emissions shall be submitted to the Office of Environmental Services, Air Permits Division, by no later than ninety days after the effective date of this Declaration of Emergency and Administrative Order, and quarterly thereafter until the expiration of this Order, or any extensions or revisions thereof.

§ 6. Special Waste (Reuse and Recycle)

Every effort should be made to minimize the disposal of reusable and recyclable material in landfills. Diversion, composting and recycling debris are priorities. Debris handlers should make every effort to properly handle and recover debris materials that have reuse value, are recyclable or the release of which into the environment would be detrimental or is prohibited, e.g. used motor oil. The Debris Management Plan provides information intended to assist operators of solid waste facilities, recycling centers, scrap metal dealer, local governments, contractors, and the general public in handling of certain debris from the Emergency Area.

§ 7. Inability to Sample or Monitor Due to Unsafe Conditions

If a facility is affected by the Winter Storm such that its employees (including contract employees) are unable to safely take samples or monitor as required by a permit or order, such sampling and/or monitoring shall be suspended for the duration of the unsafe conditions. The facility owner/operator shall record the date upon which sampling and monitoring ceased and the date upon which sampling and monitoring commenced.

When a leaking component is detected pursuant to an applicable leak detection and repair (LDAR) program, it shall be repaired as soon as practicable, but not later than fifteen (15) calendar days after cessation of the unsafe conditions. A first attempt to repair shall be made no later than five (5) days after cessation of the unsafe conditions.

§8. Public Notice and Public Participation Procedures Regarding Proposed Permit Actions

The public comment periods relating to permits for facilities listed in Appendix A shall hereby be extended to February 2, 2018.

§9. General Conditions

a. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.

b. This Order only serves as relief for the duration of the Order from the regulatory and proprietary requirements of the LDEQ, and does not provide relief from the requirements of other federal, state, and local agencies. This Order therefore does not negate the need for the property owner or facility operator to obtain any other required permits or authorizations, nor from the need to comply with all the requirements of those agencies.

§ 10. General Limitations

The LDEQ issues this Order solely to address the emergency created by the Winter Storm. This Order shall not be construed to authorize any activity within the jurisdiction of the LDEQ except in accordance with the express terms of this Order. Under no circumstances shall anything contained in this Order be construed to authorize the repair, replacement, or reconstruction of any type of unauthorized or illegal structure, habitable or otherwise.

§11. Other Authorizations Required

Nothing in this Order shall eliminate the necessity for obtaining any federal, state, or local permits or other authorizations that may be required.

§12. Completion of Authorized Activities

All activities authorized under this Order must be commenced before the expiration of this Order unless otherwise provided in an authorization or permit. The deadline for commencement under any authorization or permit issued under this order may be extended on a showing that contractors or supplies are not available to commence the work, or if additional time is needed to obtain any required authorization from FEMA, the U.S. Army Corps of Engineers, or other local, state, or federal agencies.

§ 13. Amendments

This Order may be amended as required to abate the emergency.

§ 14. Expiration Date

This Declaration of Emergency and Administrative Order shall expire at 11:59 p.m. on February 16, 2018, unless modified or extended by further order.

DONE AND ORDERED on this 19th day of January, 2018, in Baton Rouge, Louisiana.



Dr. Chuck Carr Brown
Secretary
Louisiana Department of Environmental Quality

APPENDIX A

AINumber	ActivityNumber	AName	AIPARISH	MEDIA	PCEndDate
87128	PER20170001	Town of Leonville	St. Landry	Water	1/17/2018
18832	PER20170001	Town of Clarks - Town of Clarks/Grayson Wastewater Treatment Facility	Caldwell	Water	1/17/2018
20076	PER20150003	Washington Parish Government & City of Bogalusa- Choctaw Road Landfill	Washington	Water	1/17/2018
182597	PER20170002	C-Port 3 LLC	Lafourche	Water	1/17/2018
8372	PER20170002	Phillips 66 Pipeline LLC - Clifton Ridge Marine Terminal	Calcasieu	Water	1/17/2018
129733	PER20170001	Plains Marketing LP - St James Terminal	St. James	Water	1/18/2018
43915	PER20170001	West Baton Rouge Parish - Westport Wastewater Facility	West Baton Rouge	Water	1/18/2018
19332	PER20170001	Plaquemine City of - North WWTP	Iberville	Water	1/18/2018
42465	PER20170001	Mer Rouge Village of - Mer Rouge WWTF	Morehouse	Water	1/18/2018
146711	PER20170001	Gulf Fish Inc	Terrebonne	Water	1/18/2018
19284	PER20160001	City of Scott - WWTP	Lafayette	Water	1/18/2018
90792	PER20170001	Choudrant Village of - North Wastewater Treatment Plant	Lincoln	Water	1/18/2018
9154	PER20170001	CB&I Walker LA LLC	Livingston	Air	1/22/2018
5673	PER20160001	Sewerage & Water Board of New Orleans - Main Water Treatment Plant	Orleans	Air	1/22/2018
209047	PER20170001	Praxair Inc. - Syngas Separation Unit	Ascension	Air	1/24/2018
30500	PER20170001	Town of Logansport - Logansport Municipal Wastewater Treatment Facility	DeSoto	Water	1/25/2018
2455	PER20160006	Axiall LLC - Plaquemine Facility	Iberville	Air	1/25/2018
1251	PER20170003	W R Grace & Co Conn - Lake Charles Facility	Calcasieu	Air	1/25/2018