

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF
SEVERE WEATHER EVENT
August 12, 2016**

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:

FINDINGS AND DECLARATION

1. On August 12, 2016, a weather system moving across south Louisiana brought severe thunderstorms, torrential rain, and localized flooding. As of the date of this Declaration, the National Weather Service forecasted heavy rains continuing for at least 24 more hours, with as much as 6 inches of additional rain in some areas. This weather event will be referred to herein as “the Severe Weather.”
2. By State of Louisiana Proclamation No. 111 JBE 2016, issued on August 12, 2016, Louisiana 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 in the parishes affected by the Severe Weather.
3. Parishes in which local government and/or the Governor has declared or declares an emergency shall constitute the specific areas covered by this Declaration of Emergency and Administrative Order (hereinafter “Order”). These areas shall be referred to herein as the “Emergency Areas.”
4. I find that the Severe Weather has created or will create conditions that require immediate action to prevent irreparable damage to the environment and serious threats to life or safety throughout the Emergency Areas.

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

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 throughout the Emergency Areas.

ORDER

Within the Emergency Areas:

§ 1. Wastewater Treatment Systems

a. Upset Provisions

Permittees with Louisiana Pollutant Discharge Elimination System (LPDES) permits should consider using 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. This Order extends upset provisions to include water quality-based effluent limitations. For upsets caused by the Severe Weather, the 24-hour oral notification requirement is waived unless the non-compliance may endanger human health.

b. Authorization is hereby granted to discharge water placed in storage tanks or other containers or vessels for the purpose of stabilization, provided that the tanks, containers or vessels had been emptied of their previous contents prior to filling the tanks with the water. To the extent practicable, discharges should not contain free oil, hydrocarbons or other pollutants in other than trace amounts. No free oil shall mean that the discharge shall not create a visible sheen. Water that accumulates in storage tanks,

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

containers or vessels as a result of rainfall, flooding or tidal surge may be discharged under the same conditions.

c. Appendix A sets forth guidance to operators of sanitary wastewater treatment systems to aid in the return to compliant operations to prevent further damage to the environment and serious threats to life or safety.

d. Unpermitted Emergency Discharges

The discharge of pollutants from all point sources is subject to the Louisiana Pollutant Discharge Elimination System (LPDES). Under ordinary circumstances, LDEQ requires the submission of a complete Notice of Intent to Discharge, prior to commencement of discharge.

However, during the term of this Order, authorization under LPDES General Permit LAG420000 for Short-Term and Emergency Discharges is hereby granted for new discharges of wastewaters associated with emergency situations, when such discharges are necessary for protecting human health and property or to facilitate rescue and recovery efforts. A Notice of Intent to Discharge shall be submitted not later than 48 hours subsequent to initiation of discharge. The application form, STED-G, can be found at <http://www.deq.louisiana.gov/portal/Portals/0/permits/lpdes/pdf/STED-G%201-12.pdf>, or by calling the Office of Environmental Services at (225) 219-9371. 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://www.deq.louisiana.gov/portal/Default.aspx?tabid=245>.

A copy of the General Permit can be obtained by calling the Office of Environmental Services at (225) 219-9371.

Authorization to discharge pursuant to this Order shall terminate on the date identified by the LAG42000 permit or on expiration of this Order if the LAG420000 permit is not issued.

Emergency discharges 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

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

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.

i. For each discharge, the owner/operator shall record the location of the discharge, the date and time that the discharge commenced and ceased, the approximate volume of the discharge, any known or suspected pollutants present in the discharge, and the receiving water body. The specific type of discharge and a reference to the specific section(s) of this Order authorizing the discharge shall be included. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance, Inspection Division and reported to the Office of Environmental Services, Water Permits Division, no later than seven days after the discharge.

ii. The owner/operator shall take all practicable measures to minimize the volume and duration of the discharge.

iii. The owner/operator shall take all practicable measures to prevent or minimize erosion due to the discharge and other potential impacts on the receiving water body.

e. The Department hereby authorizes the U.S. Army Corps of Engineers to discharge storm water runoff from construction activities related to Flood response activities.

Best Management Practices to avoid erosion and offsite transport of sediments are to be implemented to the greatest extent practicable. The Storm Water General Permit For Construction Activities Five (5) Acres Or More (LAR100000) can be

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

accessed at

<http://www.deq.louisiana.gov/portal/Portals/0/permits/lpdes/pdf/2014%20FINAL%20LAR100000.pdf>, and contains applicable Best Management Practices for erosion and

sediment controls in Part IV. Storm Water Pollution Prevention Plans.

f. Biosolids Land Application Projects/Sites Management:

iv. Land application of Class B Biosolids shall not take place at flooded land application sites.

v. Land application of a Class B Biosolids at permitted sites shall not resume until flooding has subsided and the water table is below 2 feet.

vi. Operators of facilities that prepare Exceptional Quality (EQ) Biosolids shall re-prepare and retreat EQ Biosolids, or dispose of the EQ Biosolids if they were stored “on-site” and subjected to flooding.

vii. Operators of facilities utilized to prepare sewage sludge to EQ Biosolids shall halt operation when flooded and shall not resume operation until the flooding has subsided and the facility has been properly cleaned.

For additional information contact Rhonda Burtch, LDEQ, Office of Environmental Services, Water Permits Division, 225-219-3213.

§ 2. Solid Waste Management

a. Debris resulting from the Severe Weather 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/permits/sw/Debris%20Management%20Plan%204%208%2015%20\(3\).pdf](http://www.deq.louisiana.gov/portal/Portals/0/permits/sw/Debris%20Management%20Plan%204%208%2015%20(3).pdf)) (“the Debris Management Plan”).

b. The Debris Management Plan will govern the selection, approval, use, and closure of temporary sites for the staging and transfer of construction and demolition (C&D) debris; staging of vehicles and vessels; staging of household hazardous waste; chipping, grinding and/or burning of vegetative debris; composting of vegetative debris; staging of munitions and ordnances; staging of white goods, electronic goods and other consumer items; and recycling and beneficial use activities.

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

c. Uncontaminated C&D debris may be managed at a temporary staging area authorized by the LDEQ. Uncontaminated C&D debris that is mixed with other uncontaminated debris generated by the Severe Weather such as white goods or household hazardous waste, should be segregated from other solid waste prior to disposal in a permitted landfill or authorized disposal site.

d. White goods (i.e., unsalvageable air conditioners, stoves and range tops, as well as refrigerators and freezers from which food has been removed) shall be stored in an area separate from other solid wastes and shall be stored in a manner that prevents vector and odor problems. No white goods may be stored in or on any permitted landfill cells that have not undergone final closure and have not received written authorization from the LDEQ specifically allowing storage in that area. All white goods shall be removed from the storage facility or staging area and sent offsite for recycling, or recycled onsite, within ninety (90) days of initial receipt at the site.

e. Putrescible waste (e.g., rotting food that has been removed from unsalvageable refrigerators and freezers) shall be disposed of in a permitted Type II landfill.

§ 3. Hazardous Waste

Hazardous waste generated as a result of the Severe Weather must be separated from other waste generated by the Severe Weather 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. Asbestos Clean-up

The LDEQ waives the requirement for prior notification for emergency demolition or emergency cleanup of asbestos-containing material resulting from the Severe Weather. Within one (1) business day of commencing such demolition or cleanup, however, the

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

person responsible for such work shall notify the LDEQ in writing. The notification shall be submitted on the Asbestos Notification of Demolition or Renovation Form AAC-2, which may be found at <http://www.deq.louisiana.gov/portal/Portals/0/assistance/HW/AAC2form-101615.pdf>. The procedures in LAC 33:III.5151 (demolition/renovation) and LAC 33:III.Chapter 27 (accreditation and training requirements) for handling asbestos-containing material shall be complied with during demolition, cleanup, transportation, and disposal, except as otherwise provided herein. Construction and demolition debris generated from residential structures of four units or less that are subject to a government-ordered demolition shall be disposed of in accordance with the Debris Management Plan, except Regulated Asbestos Containing Material (RACM) shall be disposed of in a Type I/II landfill. Burning of asbestos-containing material is prohibited.

§ 5. 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 areas.

§6. Underground Storage Tanks

During the time that any underground storage tank (UST) system is not accessible due to conditions resulting from the Severe Weather, the owner/operator of the UST system is relieved of the requirements for release detection, corrosion protection, and inventory control. Each owner/operator shall report any suspected UST releases to the Department within twenty-four (24) hours of gaining knowledge of the suspected release, unless an emergency condition makes it impossible for the owner/operator to do so, in which case the owner/operator shall report the suspected

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

release to the Department as soon as he/she is able. All recordkeeping requirements for inoperable systems are suspended during the time of this Order. During the time of this Order, in the areas affected by the Severe Weather, non-compliance with release detection, corrosion protection, and inventory control for UST owners and operators will not constitute non-compliance for purposes of the deductibles enumerated in La. R.S. 30:2195.10. Prior to returning flooded UST systems into service, UST owners/operators should refer to the Underground Storage Tank Flood Guide, which may be found at <http://www.deq.louisiana.gov/portal/DIVISIONS/UndergroundStorageTankandRemediationDivision/UndergroundStorageTank.aspx>, for guidance.

§ 7. Open Burning

a. The Department authorizes local governments or their agents to conduct the open burning of Severe Weather-generated trees, leaves, vines, twigs, branches, grass, and other vegetative debris, 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. 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 Severe Weather-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.

§8. General Conditions

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

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

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.

§ 9. General Limitations

The LDEQ issues this Order solely to address the emergency created by the Severe Weather. 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.

§10. 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.

§11. 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.

§ 12. Amendments

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

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

§ 13. Expiration Date

This Declaration of Emergency and Administrative Order shall take effect immediately upon execution by the Secretary of the Department, and shall expire at 11:59 P.M. on September 12, 2016, unless modified or extended by further order.

DONE AND ORDERED on this 12th day of August, 2016, in Baton Rouge, Louisiana.



Chuck Carr Brown, Ph.D.
Secretary

APPENDIX A

GUIDANCE PROTOCOL FOR SANITARY WASTEWATER TREATMENT SYSTEMS

The following protocol is intended to assist operators of sanitary wastewater treatment systems in the Emergency Area in start up and operation.

1. Access

Entrance to the treatment plant should be considered only after flood waters have receded enough to allow safe operation of the treatment plant including the safe conditions for staff. Accessibility to treatment plants in restricted areas may need to be cleared with the Office of Emergency Preparedness. Contact the local sheriff if assistance in gaining access to the treatment plant is required. The use of sound personal protective equipment for safety in unsanitary or unsafe conditions is required. Early return to compliant operation minimizes long-term problems within the entire wastewater system.

2. Power Supply

For use of generator power, arrange for a reliable and continual fuel source. Contact the Department of Agriculture if assistance in obtaining fuel for power generation at your treatment plant is needed. If no generation is available and you must wait for electrical providers; consider notification to residents of the effect on collection lines. If removal of clean out plugs is needed to prevent back up into homes, notify affected customers warning them to remain clear of these areas. If pump trucks are used, LDEQ can advise of locations to dispose of the pumped sewage.

3. Start Up

Once it is safe, re-power the treatment system, aerators and pumps. The primary goal is to remove sanitary wastewater from contact with humans, while making every effort to do so in a manner that is practical and least impacting on the environment. Activate disinfection units and maintain them. Initial effluent will likely be poorly treated and of a very poor quality. Adequate disinfection will be important to protect human health downstream of the discharge. If the system has been down and/or without power for an extended period of time, resident bacteria used in the treatment process may need to be re-established. Consider reseeded the system with activated sludge from operating aerated treatment plants. Several treatment plants are available for use in reseeded. Contact the Department's Water Permits Division, 225-219-9371 for information regarding system seed sources.

Declaration of Emergency & Administrative Order – Severe Weather 8/12/16

4. Monitoring

Watch plant operations carefully to confirm it is functioning properly. Ensure that lift stations within the collection system are functional. Without functioning lift stations, sewage is not being removed from residences and sent for treatment. Visually observe effluent to maximize treatment effectiveness in the short term. If simple tools and/or tests are available to diagnose the plant's operational status ("sludge judge," settle-o-meter, dissolved oxygen meters, BOD analyses) use them frequently. If your plant is discharging poorly treated sewage, consider the impacts to persons, fish and wildlife downstream, including the possibility that drinking water intakes may be located downstream of your effluent. Notification to downstream users may be necessary to protect human health. Sample and analyze your effluent per LPDES requirements as soon as you are able.

5. Notifications and Documentation

Discharges that result in emergency conditions (threat to human health and the environment) must be reported immediately (1-877-925-6595). Discharges that result in emergency conditions (threat to human health and the environment) may require notification to affected persons. Report to the Department any discharges that interfere with downstream uses, such as swimming or drinking water sources or if fish kills occur. Discharge Monitoring Reports (per permit requirements) should be used to notify the Department of non-emergency conditions. Notification to sewage users may be necessary if problem with the system prevents removal of sewage from residences (or other human contact) on an on-going basis. Notification to downstream users may be necessary to protect human health. Notify the Local Office of Emergency Preparedness when hurricane damage repairs are known – Federal Emergency Management Agency (FEMA) may be able to help with costs associated with hurricane damage.

A permittee who wishes to establish the affirmative defense of upset must document the cause of the upset, that the facility was being properly operated at the time of the upset, that notice of the upset that exceeded effluent limitations was submitted to the DEQ and that the permittee took all reasonable steps to minimize or prevent the likelihood of adversely affecting human health or the environment.