

Section 16

Section 16.1 Rules Governing Discharges into the Public Storm Drain System MS4

A. General

- (1) The public storm water drainage system exists primarily to allow the removal of storm water runoff from public and private land surfaces, and will be referred to herein as the “storm water drainage system.” The storm water drainage system is also referred to as the Municipal Separate Storm Sewer System (MS4). Preventing runoff pollution from entering Lake Pontchartrain and adjacent receiving water is manifestly in the public interest.
- (2) The rules contained in this Section relating to discharges and runoff into the public storm water drainage system of Orleans Parish are supplemental to all other rules and regulations of the Sewerage and Water Board of New Orleans (SWBNO) and the City of New Orleans governing said storm water drainage system, runoff, discharges and tie-ins thereto. Additionally, all discharges shall conform to regulations as set forth by the Louisiana State Department of Health and Hospitals (LADHH), the Louisiana Department of Environmental Quality (LADEQ), the City Board of Health, and the United States Environmental Protection Agency (USEPA).
- (3) This section applies to all discharges and runoff within Orleans Parish including those areas:
 - a) within the levee system that are drained and pumped by the Sewerage and Water Board
 - b) inside or outside of the levee system under the control of the City of New Orleans
 - c) outside of the levee system under the control of the Orleans Levee District
 - d) outside of the levee system under the control of the Board of Commissioners of the Port of New Orleans
 - e) inside or outside of the levee system under the control of the Department of Transportation and Development.
- (4) Definitions
 - a) "Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
 - b) "CWA" or "The Act" means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments

of 1972) Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

- c) "Control Measure" as used in this code, refers to any BMPs or other method used to prevent or reduce the discharge of pollutants to waters of the state.
- d) "Discharge" for the purpose of this permit, unless indicated otherwise, refers to discharges from the Municipal Separate Storm Sewer System.
- e) "Illicit connection" means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer system.
- f) "Illicit discharge" is any discharge to a municipal separate storm sewer system that is not composed entirely of storm water.
- g) "LPDES" means Louisiana Pollutant Discharge Elimination System.
- h) "MEP" or "Maximum Extent Practicable," the technology-based discharge standard for Municipal Separate Storm Sewer Systems established by CWA §402(p). Section 402(p)(3)(B)(iii) of the Federal Clean Water Act requires "controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." MEP is defined as a standard for water quality that applies to all MS4 operators regulated under the LPDES Storm Water Program. Since no precise definition of MEP exists, it allows for maximum flexibility on the part of MS4 operators as they develop, implement and refine their program.
- i) "MS4" or Municipal Separate Storm Sewer refers to a publicly-owned conveyance or system of conveyances that discharges to waters of the U.S. and is designed or used for collecting or conveying storm water, is not a combined sewer, and is not part of a publicly-owned treatment works (POTW). (See LAC 33:IX.2511.B.8 for a complete definition.)
- j) "Storm sewer" unless otherwise indicated, refers to a municipal separate storm sewer.
- k) "Storm Water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.
- l) "Storm Water Discharge Associated with Industrial Activity" is defined at LAC 33:IX.2511.B.14.
- m) "SWBNO" or Sewerage & Water Board of New Orleans.

- n) "SWPPP" or Storm Water Pollution Prevention Plan. The SWPPP has three basic components: an Erosion and Sediment Control Plan for the temporary construction period, a Water Quality Control Plan describing the permanent water treatment measures, and a Water Quantity Control Plan describing the permanent peak flow and volume control measures.
- o) User – Any person who directly or indirectly discharges, causes or permits the discharge of storm water and/or wastewater into the storm drainage system.
- p) "Waters of the State" is defined as both surface and underground waters within the state of Louisiana including all rivers, streams, lakes, estuaries, ground waters and all other watercourses and waters within the confines of the state, and all bordering waters and the Gulf of Mexico. "Waters of the State" does not include waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act, 33 U.S.C. 1251, *et seq.*

B. Prohibited Discharges

(1) General Prohibitions

Discharge or runoff to the Storm Water Drainage system shall not contain:

- a) toxins in toxic amounts.(See B.3.m. below).
- b) pollutants in quantities that would cause a violation of State water quality standards.
- c) floatable debris, oils, scum, foam, or grease in other than trace amounts.
- d) non-storm water discharges except in accordance with these rules and regulations.
- e) pollutants, water, or wastes which results in the degradation or loss of State-designated beneficial uses of receiving waters except when authorized by the State.
- f) material which will interfere with the operation or performance of the stormwater drainage system and the ability to transport, convey, move, pump, or discharge storm water.
- g) any intentional disposal of grass clippings, leaves or other vegetation into any gutter, street, sidewalk, or other drainage device that connects with or drains into the MS4.
- h) offensive odors.
- i) significant coloration.
- j) objectionable coatings on the sides or deposits on the bottoms of any conveyance, such as, but not limited to dirt, sand, oil, grease, tar, or wax.
- k) wastes which contain phenols or other taste or odor producing substances that may affect the taste or odor of the receiving stream.
- l) wastes which contain foaming or frothing agents of a persistent nature.

- m) wastes which contain pathogenic bacteria or the indicator organisms of pathogenic bacteria in quantities greater than the densities prescribed by other agencies as the maximum limit for safe recreational contact waters.
- n) wastes which contain radioactive materials exceeding the standards of the Nuclear Regulatory Commission.
- o) wastes which contain unusual concentrations of total dissolved solids (such as sodium chloride or sodium sulfate).
- p) discharge of culinary waste, catering, crawfish boils.
- q) wastes which contain any substance considered or found to be toxic to aquatic life, such as but not limited to hydrocarbons such as gasoline, kerosene, and mineral spirits.
- r) discharge which contains oil or grease.
- s) wastes which contain litter or garbage or the runoff from garbage collection and waste cooking oil containers or areas.
- t) discharge from motor homes, trailers, or portable toilets.
- u) discharge from washing machines, and all gray water.
- v) discharge containing motor vehicle fluids such as from radiator flushing or engine cleaning.
- w) discharge containing sand, cement, gravel, or mortar from transit mix trucks or portable mixers or other material associated with clearing, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures to the Maximum Extent Practicable.
- x) discharge containing paint, oil based or water based.
- y) discharge containing animal feces of any kind.
- z) discharge from commercial car/truck washing.

(2) Prohibitions of Pesticides, Herbicides, and Fertilizer.

Person shall not use or cause to be used any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.

Person shall not dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer or a pesticide, herbicide, or fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.

(3) Prohibitions with Numerical Limits

Discharge shall not exceed:

- a) Biological Oxygen Demand (B.O.D.) of 45 milligram per liter (mg/l) in concentration.
- b) Total Suspended Solids (TSS) of 45 mg/l in concentration.

- c) Total Dissolved Solids (TDS) of 500 mg/l.
- d) Maximum pH of 9.0.
- e) Minimum pH of 6.0.
- f) Oil and Grease level of 15 mg/l.
- g) 3 °C or 5 °F above the ambient temperature of the receiving canal.
- h) Chemical Oxygen Demand (COD) of 30 mg/l in concentration.
- i) Dissolved Oxygen : 4 mg/l (Minimum).
- j) Turbidity of 280 NTUs.
- k) Fecal Coliform of 400 colonies/100 ml

C. Provisional Discharges

(1) General

Non – Storm Water discharges may be allowed to enter the storm water drainage system provided that the discharge is permitted or approved by a State or Federal Authority or provided the discharge is adjudged by the General Superintendent or his designee to be necessary to prevent the public sewerage system from being unnecessarily or excessively burdened.

It shall be expressly understood that permission for a provisional discharge may be revoked, the connection to the storm water drainage system terminated, the water service terminated, and/or any action taken to cease or terminate any discharge at any time the General Superintendent or his designee adjudges that such action is necessary to protect the receiving stream or the storm water drainage system as described in this Section.

(2) Construction and construction area discharges and runoff are provisionally allowed:

- a) From freshly tarred roofs or freshly tackcoated asphalt pavements
- b) From areas of excavation, filling, grubbing, pile driving, or drilling provided:
 - i. One acre to less than five acres is covered automatically under LPDES Storm Water permit with appropriate SWPPP and BMPs in place.
 - ii. Areas five acres and greater be covered through a LPDES Storm Water Permit for Construction Activities by submitting a Notice of Intent (NOI) with appropriate SWPPP and BMPs in place.
 - iii. All construction activities less than one acre shall provide with the use of BMPs what is necessary to protect the environment /storm drains and streets from pollution of any kind.

(3) State or Federal Permitted or Approved discharges allowed to the Storm Water Drainage System:

- a) United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) permitted discharge or NPDES Multi Sector Storm Water General Permit (MSGP) or a Permit for a discharge associated with Industrial activity or Construction activity.
- b) Louisiana Department of Environmental Quality (DEQ) Louisiana Pollutant Discharge Elimination System (LPDES) permitted discharge including but not limited to an industrial process discharge, a discharge associated with a packaged treatment plant or oxidation pond, or ground water remediation discharge.
- c) Louisiana Department of Health and Hospitals (DHH) approved or permitted discharge including but not limited to septic tank or percolation field runoff.
- d) Runoff from fire fighting activities or hazardous material spill clean up activities as allowed or approved by the New Orleans Fire Department, State of Louisiana Fire Marshall, LA State Police, and /or the office of Emergency Management.

(4) Other Non – Storm Water Discharges Provisionally Allowed:

- a) Potable water only discharges including:
 - i. Fire hydrant or water line flushing.
 - ii. Fire sprinkler systems testing.
 - iii. Water main chlorinating and testing.
 - iv. Drainage system structures maintenance flushing.
 - v. Vacuum producing aspirator water provided no pollutant is present.
 - vi. Carbon Tower Filter backwash.
 - vii. Tennis court watering.
 - viii. Outside swimming pool water and filter backwash (see Section 15.5 of the Plumbing Code)
 - ix. Building surface rinse (water only).
 - x. Display fountain drift and runoff.
 - xi. Dye testing of the sewerage and/or drainage systems.
 - xii. Charity car wash with proper BMPs in place. (Must protect the nearest storm drain).
- b) Natural waters provisionally allowed:
 - i. Lagoon or lake runoff.
 - ii. Swamp, riparian habitat, or wetlands runoff.
 - iii. Foundation, footing, weep-hole, or sump groundwater.
 - iv. Communication or electrical manhole or vault discharge.

- c) Irrigation water provisionally allowed:
 - i. Lawn and garden runoff.
 - ii. Nursery runoff.
 - iii. Landscape runoff.

- d) Cooling, Heating, and Condensate waters provisionally allowed when the discharge contains potable water only and no chemical treatment has occurred. The discharge shall be free of pollutants:
 - i. Air Conditioning cooling tower or condenser bleed-off, drift, and pan cleaning discharges.
 - ii. Air Conditioning chiller bleed-off.
 - iii. Compressor condensate.
 - iv. Steam boiler blow-down.
 - v. Hot Water heater discharge.
 - vi. Pasteurization water.
 - vii. Air Conditioning condensate.
 - viii. Dehumidifier condensate.
 - ix. Well water used for cooling, pasteurization, or other commercial or industrial process provided the discharge is permitted by the USEPA or LADEQ.

- e) Residential motor vehicle washwater allowed provided:

The vehicle is a privately owned and operated; and washed on the owners residential property on a pervious surface, like grass or rocks that does not allow any water to enter the storm drain system.

- f) Wash water from concrete or pavement curing or grouting. No solids or concrete can enter the drainage system.

- g) Wash water from performed dye testing for sewer and drainage maintenance and operation.

D. Submission of Plans, Specifications, and Data

- (1) The Chief of Environmental Affairs or designee may require any or all plans, specifications, laboratory analyses, or other pertinent information relating to the discharge (proposed or existing) of non-storm water or storm water runoff, treatment or processing facilities, flow monitoring facilities, etc.

- (2) All such requested information must be provided by an authorized representative of the discharger and include the following statement:

'I certify under penalty of law that the information and all attachments provided 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 on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.'

- (3) The analytical procedures, where applicable, shall follow those procedures set forth in Standard Methods for the Examination of Water and Wastewater, latest edition, or EPA regulation 40 CFR part 136, as amended, or as set forth by the Chief of Environmental Affairs.
- (4) All information submitted will, by nature of the administering agency, become public record. Information which is considered to constitute trade secrets or information of confidential nature must be so identified to receive confidential treatment. However, in no case will confidential information be construed to include any and all information as to the contents of the connection discharge, or runoff.
- (5) All reports submitted in reference to this section shall be signed as follows: By a responsible corporate officer, if the discharger submitting the reports is a corporation. For the purpose of this paragraph, a responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy, or decisions-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if authority to sign documents had been assigned or delegated to the manager in accordance with corporation procedures.
- (6) Anyone subject to reporting requirements shall maintain records of all information resulting from any monitoring activities by this section. Such records shall include for all samples:
 - a) The date, exact place, method, and time of sampling and the names of
 - b) the person or persons taking the samples:
 - c) The dates analyses were performed;
 - d) Who performed the analyses;
 - e) The analytical techniques/methods used; and
 - f) The results of such analyses.
 - g) Assurance that test procedures for the analysis of pollutants conform to procedures required pursuant to 304 (h) of The Clean Water Act and EPA regulation 40 CFR part 136 as amended

(7) Anyone subject to the reporting requirements established in this section shall be required to retain for a minimum of 3 years any records or monitoring activities and results and shall make such records available for inspection and copying by the SWBNO. This period of retention shall be extended during the course of any unresolved litigation.

E. Requirements to Develop SWPPP or Slug/Spill Prevention Plans

SWBNO may sample and analyze the discharge or runoff and conduct surveillance activities in order to identify noncompliance with standards. Additionally, SWBNO may evaluate whether a discharger needs a plan to control pollution in their discharges. For purposes of this subsection, a slug loading is any discharge of non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. If SWBNO decides that a pollution control plan or SWPPP is needed, the plan shall contain, at a minimum, the following elements:

- a) Description of discharge practices, including non-routine batch discharges;
- b) Description of stored chemicals;
- c) Procedures for immediately notifying the Sewerage & Water Board of New Orleans of slug discharges, with procedures for follow-up written notification within five days; and
- d) Procedures to prevent adverse impact from accidental spills including:
 - i. inspection and maintenance of storage areas;
 - ii. handling transfer, loading and unloading operations,
 - iii. control of plant site-run-off;
 - iv. worker training;
 - v. building of containment structures or equipment;
 - vi. measures for containing toxic organic pollutants (including solvents);
 - vii. measures and equipment for emergency response.

F. Notice of Potential Problems, Including Slug Loading

All dischargers shall notify the SWBNO Environmental Affairs Office immediately of all discharges that could cause problems to the MS4, including any slug loadings.

G. Penalty for Violation of Rules

(1) General

The Chief of Environmental Affairs or his designee shall lay before the Special Counsel of the Board any cases of the violation of these or other rules that may be herein provided, and the Special Counsel may cause the proper charges to be made and vigorously prosecute the offenders in such cases to the full extent of the law.

In addition to the legal sanctions as specified at Section 16 of the Plumbing Code, which can result in, a) the termination of water service, b) closure of connection or discharge into the public receiving stream or c) the modification, suspension or revocation of a discharge permit, the SWBNO can also invoke the provisions of 19 U.S.C. Section 1001 relating to false statements and Section 309 (C) (2) of the Clean Water Act governing false statements, representations or certifications in reports required under the Act.

The SWBNO will use the Storm Water Enforcement Response plan to enforce Section 16.1.

(2) Civil Penalties

In addition to any other remedy provided for by law or by this Code, any one who is found to have violated or who willfully or negligently failed to comply with a provision of this section, and the orders, rules, regulations and permits issued hereunder, shall be fined in an amount not to exceed One Thousand Dollars (\$1,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, SWBNO may recover reasonable Attorney's fees, court costs, court reporters fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Code or the orders, rules, regulations, and permits issued hereunder. In addition to Storm Water Enforcement plan other remedy provided for by law is as follows:

New Orleans City Code Sections.

Sec. 54-154.1. Obstruction of catch basins or other elements of the drainage system at construction or demolition sites.

Sec. 66-282. - Littering, dumping, and dumping of specific materials.

Sec. 66-285. - Dumping refuse, etc., in yards, etc

Sec. 66-287. - Sweeping from premises and sidewalks to be taken up.

Sec. 66-287.1. - Use of leaf blowers to transfer or direct debris to public drains prohibited.

(3) FALSIFYING INFORMATION

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this section, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Code, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two (2) years, or by both. See Section 309 of the Clean Water Act.

H. Power and Authority of Enforcement

(1) The SWBNO's duly authorized Environmental Affairs staff, bearing identification and credentials, shall be permitted to gain access to such properties as may be necessary for the purpose of inspection, observation, measurement, sampling and testing, to

determine compliance to the provisions of this Code. Should a violation of this Code be found, the polluter shall be served with written notice stating the nature of such violation and providing a time limit for the satisfactory correction thereof.

(2) Where an actual or potential threat to health or welfare exists, SWBNO shall immediately and effectively halt all discharges. The Sewerage and Water Board shall have the authority to take the same action against anyone who shall continue to be in non-compliance beyond the prescribed time limit. Anyone in violation of this Code shall become liable to the Sewerage and Water Board by reason of such violation.

I. Administration Enforcement Remedies

1. Notice of Violation

When the Chief of Environmental Affairs finds that a user has violated, or continues to violate, any provision of these rules and regulations, or order issued hereunder, or any other storm water standard or requirement, the Chief of Environmental Affairs may institute an administrative adjudication proceeding against said user according to the policy of the Sewerage and Water Board, subjecting the user to fines, penalties or other sanctions as may be applicable. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

The administrative adjudication proceedings as set forth in the policy of the Sewerage and Water Board, including the appeals therefrom, will be held in compliance with the Louisiana Administrative Procedure Act.

Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user. Additionally, nothing in this Section shall limit the authority of the Chief of Environmental Affairs to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

2. Consent Orders

The Chief of Environmental Affairs may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.

3. Emergency Suspensions

The General Superintendent may deem it necessary to take emergency action, which includes, but is not limited to, interruption or termination of service without

notice, to stop or prevent any discharge which presents or may present an imminent threat to the health or welfare of humans, which reasonably appears to threaten the environment. However, an administrative hearing shall be held within five (5) days of the emergency action taken.

4. Compliance Orders

When the Chief of Environmental Affairs Division finds that a user has violated, or continues to violate, any provision of these rules and regulations, or order issued hereunder, or any other storm water standard or requirement, the Chief of Environmental Affairs Division may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified period of time. Compliance orders also may contain other requirements to address the noncompliance, including additional management practices designed to minimize the amount of pollutants discharged to the storm drainage system. A compliance order may not extend the deadline for compliance established for a storm water standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for taking any other action against the user.

5. Cease and Desist Orders

When the General Superintendent finds that a user has violated, or continues to violate, any provision of these rules and regulations, or order issued hereunder, or any other storm water standard or requirement, or that the user's past violations are likely to recur, the General Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- a. Immediately comply with all requirements; and
- b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- c. A hearing shall be held within fifteen (15) days of the General Superintendent's issuance of a cease and desist order.

J. Stormwater Charges and Fees.

The Sewerage & Water Board of New Orleans may adopt charges and fees which include:

- (1) Fees for reimbursement of costs of setting up and operating the Sewerage & Water Board of New Orleans MS4 Stormwater program;
- (2) Fees for monitoring, inspections and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures;
- (4) Fees for stormwater permit applications;
- (5) Fees for filing appeals;
- (6) Fees for removal (by the Sewerage & Water Board of New Orleans) of pollutants otherwise subject to federal Clean Water Act standards;
- (7) Fees for stormwater discharge permit;
 - a. Based on sampling and analytical cost.
- (8) Fees for construction inspections.