

Tulane Environmental Law Clinic



My Guide

to Environmental Protection
In Louisiana

My Guide to Environmental Protection in Louisiana
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FORWARD

When making decisions that may harm the environment, Louisiana law requires the government to balance environmental and economic issues. Common sense tells us, however, that the government will often give the most weight to the concerns it hears the most about. So to protect environmental resources in your community, it is important to make your voice heard.

By and large, industries that pollute the environment are organized. They know how to make government officials hear their voices. They know where to find the law, where to find experts, when to file comments, how to hire lawyers, etc. They therefore have an advantage in getting what they want from government, which may not always be the same thing that you want.

How do you make sure that government hears your voice too? That is what the Tulane Environmental Law Clinic prepared this guide to help with. There is no magic bullet of course. Organizing, commenting effectively, building coalitions, and other things you need to do to influence government decisions takes hard work, trial and error. Plus, one thing we've learned at the Clinic is that no matter how hard you work, you don't always win. You don't even always win the really important battles. But you *can* win some of the time. And whether we win or lose, we find it helps to know that we did our best to get our points across.

It is natural to feel angry or bitter sometimes about destructive government actions or industry proposals and projects. But those emotions can interfere with our ability to communicate effectively and to win the next battle. Some of our opponents on today's issue may be allies on a different issue tomorrow. It is therefore best not to burn bridges. It is important, of course, to communicate your passion and focus. But at the Clinic, we have found that approaching opponents and government officials with respect can also increase chances of success. We are in this battle for the long haul and good relationships with people on all sides of the issues help make a long-term commitment to public activism sustainable.

The Clinic owes a debt to many who helped draft and improve the guide that follows. To mention a few: our Community Outreach Director, May Nguyen, did the bulk of the editing, re-writing, and preparation of new material for this edition. She had a lot of help, however. We thank the following members of the Clinic's Community Outreach Advisory Committee for their wise counsel: Monique Harden, Cyndi Nguyen, Marylee Orr, Jennifer Roberts, Cheryl Slavant, Burghart Turner and Dean Wilson. Thanks also to designers Cheri Babich and Kelsey Nibert. Special thanks to the Clinic's hardworking undergraduate student interns: Jeremy Apolinski, Erin Platt, and Andrew Vaughan. As always, we thank the McKnight Foundation and the Deer Creek Foundation for years of crucial support.

We hope that you find this guide useful. Please let us know if you have suggestions for improvements to future editions.

Please note that the Clinic has prepared "Citizen's Guide" videos that cover much of the same ground as this guide. Those videos are available on YouTube and at the following internet address: http://www.tulane.edu/~telc/html/CG_Vids.html. As we repeat at the end of each of these videos: This is *your* Louisiana, *your* environment!

Adam Babich,
Director, Tulane Environmental Law Clinic

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Part I

FIND OUT WHAT'S GOING ON

*This Chapter can help you
exercise your rights to get notice
about:*

1. Permit Applications
2. Proposed Rules (also
known as regulations)
3. Public Comment
Periods
4. Public Hearings
5. Public Meetings

Chapter 1

REQUEST PUBLIC NOTICE

Are you interested in finding out what's going on in your environment? The first step is to pay attention to decisions and proposed decisions of federal, state and local agencies. Watch for any permit applications or proposed regulations that could affect your environment. As a member of the public, you usually have a right to receive notice (that is, announcements) when government agencies use their power to create rules or issue permits to polluters.

Monitoring these notices is important. The law may only provide a short period (for example, 30 days) after an agency publishes a notice for public comment. Prompt notice allows you more time to review the permit application or proposed rule. Failure to comment within the comment period usually means that 1) the agency will not pay attention to your comments, and 2) you may not appeal the government's decision to a court.

Government Action

Many government agencies have permitting programs. Polluters usually must have a permit in order to pollute the environment without breaking the law. To get a permit, the polluter must submit a **permit application** to the government agency. Some government agencies publish or distribute a notice that they have received a permit application. In addition, government agencies often provide notice of proposed permit decisions.

Government agencies create and amend **rules** to regulate environmental pollution. Usually, the agency will start by drafting a rule or an amendment. Then the agency will publish or distribute notice about the proposed rule and invite public comment.

In a **notice of an opportunity for public comment**, the government typically invites the public to comment on a permit application or a proposed rule. For example, Louisiana state

agencies, such as the Louisiana Department of Environmental Quality (LDEQ) or the Louisiana Department of Natural Resources (LDNR) often seek public comment about a permit application by publishing public notice of the proposed permit. The notice will include a deadline or set a time limit (for example, 15, 30, or 90 days from the date of notice) for public comment.

Here's an example of a public notice for public comment.

<p style="text-align: center;">PUBLIC NOTICE LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY (LDEQ) TENSAS PARISH POLICE JURY/TENSAS PARISH SANITARY LANDFILL DRAFT WATER DISCHARGE PERMIT</p> <p>The LDEQ, Office of Environmental Services, is accepting written comments on a draft Louisiana Pollutant Discharge Elimination System (LPDES) permit prepared for Tensas Parish Police Jury, Tensas Parish Sanitary Landfill, P.O. Box 598, St Joseph, LA 71366. The facility is located at US Highway 65 South, Walker Road, 5 Miles North of St. Joseph, Tensas Parish. Upon the effective date of the final permit, the LPDES permit shall replace the previously issued LPDES permit.</p> <p>The principal discharge from this existing source is made into an unnamed ditch, thence into Clark Bayou, thence into Saddletree Lake, waters of the state classified for primary contact recreation, secondary contact recreation, propagation of fish and wildlife, and drinking water supply. Under the SIC Code 4953, the applicant proposes to discharge associated wastewaters from a municipal non-hazardous solid waste landfill.</p> <p>During the preparation of this permit, it has been determined that the discharge will have no adverse impact on the existing uses of the receiving waterbody. As with any discharge, however, some change in existing water quality may occur.</p> <p>Comments and requests for a public hearing or notification of the final decision can be submitted via personal delivery, U.S. mail, email, or fax. Comments and requests for public hearings must be received by 4:30 pm CST, Monday, August 24, 2015. Delivery may be made to the drop-box at 602 N. 5th St., Baton Rouge, LA 70802. U.S. Mail may be sent to LDEQ, Public Participation Group, P.O. Box 4313, Baton Rouge, LA 70821-4313. Emails may be submitted to DEQ.PUBLICNOTICES@LA.GOV and faxes sent to (225) 219-3309.</p> <p>Please see additional instructions for comment submission, hand delivery and information regarding electronic submission at http://www.deq.louisiana.gov/portal/Default.aspx?tabid=2256 or call (225) 219-3276. Emails should follow the statewide email policies. For more information regarding statewide email policies, go to http://doa.louisiana.gov/ocs/email/policies.htm.</p> <p>If LDEQ finds a significant degree of public interest, a public hearing will be held. LDEQ will send notification of the final permit decision to the applicant and to each person who has submitted written comments or a written request for notification of the final decision.</p> <p>The application, draft permit and statement of basis are available for review at the LDEQ, Public Records Center, Room 127, 602 North 5th Street, Baton Rouge, LA. Viewing hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday (except holidays). The available information can also be accessed electronically on the Electronic Document Management System (EDMS) on the DEQ public website at www.deq.louisiana.gov.</p> <p>Inquiries or requests for additional information regarding this permit action should be directed to Ms. Melissa Reboul, LDEQ, Water Permits Division, P.O. Box 4313, Baton Rouge, LA 70821-4313, phone (225) 219-3199.</p>
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1.1 Sample Notice Louisiana Department of Environmental Quality (LDEQ) Notice of Public Comment Period for a Permit Application (Page 1 of Notice)

Some notices announce **public hearings**. In such a notice, the government agency invites the public to appear in person to comment on a proposed action – such as a proposed rule or permit application.

In addition, sometimes a government official (for example, commissioner or elected official) will hold a meeting to discuss government matters. **Notice of a public meeting** includes information about the date, time, place and agenda of the public meeting.

How to Get Notice

Your method of accessing notice of government actions will likely depend on the government agency involved and on the type of activity at issue in the permit or rule.

The government may publish announcements in **newspapers** or **flyers** about public meetings. Your town, city, or parish level government offices may also publish announcements about regular meetings on their website. For example, the New Orleans, Baton Rouge and Lafayette Board of Zoning Adjustment or Planning Commission calendars of meetings and agendas are located at the following internet addresses:

Sources for Notice:

- ✓ Newspapers
- ✓ Flyers
- ✓ Government website
- ✓ Government email “listserve” (receive electronic copies)
- ✓ Government direct mailing list (receive hardcopies)

- <http://www.nola.gov/city-planning/calendar/>
- <https://brgov.com/dept/planning/meetingsagendas.htm>
- <http://www.lafayettela.gov/PZD/Zoning/Pages/default.aspx>

These web addresses may have changed by the time you are reading this. It should be relatively easy, however, to find current web addresses.

Government websites are, in general, good sources of information. Please refer to the Lagniappe section at the end of this guide for lists of state and federal environmental agencies. These agencies have websites that you can search for public notices and other information. For example, below are public notice websites for the Louisiana Department of Environmental Quality and the Louisiana Department of Natural Resources—two important state environmental agencies. The following internet addresses are subject to change, but it should be relatively easy to find current web addresses.

- Louisiana Department of Environmental Quality
<http://www.deq.louisiana.gov/apps/pubNotice/default.asp>
- Louisiana Department of Natural Resources
<http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=591>

If you would like to have public notices sent directly to you, you can request to be added to a **government agency email “listserve.”** Some agencies maintain a “listserve” to provide email notices to people who subscribe to the list. You can subscribe to the Louisiana Department of Environmental Quality listserve online, currently located at the following internet address:

- http://louisiana.gov/Services/Email_Notifications_DEQ_PN/

The Federal government compiles public notices about many topics in a daily publication called the Federal Register. You can subscribe online to receive an electronic copy of the Federal register. The sign-up page is currently located at the following internet address:

- <http://listserv.access.gpo.gov/cgi-bin/wa.exe?SUBED1=FEDREGTOC-L&A=1>

Sometimes the Louisiana Department of Environmental Quality will issue a permit without providing public notice on its listserve or its web page (for example, for so-call “minor source” air quality permits). At least in theory, however, LDEQ will send notice that it received an application for such a permit to people who made a written request for permit notices within their parishes (a sample request appears on the next page).

When requesting notice from a federal agency, such as the U.S. Army Corps of Engineers, it is generally a good idea to direct your letter to the regional office that regulates the activity. The Corps is divided into regional district offices. The Orleans District regulates southern Louisiana. The Vicksburg District regulates northern Louisiana. Similarly, EPA is divided into regional offices. EPA Region 6, located in Dallas, Texas, is primarily responsible for EPA activities relating to Louisiana and Arkansas, among other states. EPA Region 4, located in Atlanta, Georgia, is primarily responsible for EPA activities relating to Mississippi, among other states.

“Getting notice is my first line of defense to protect my environment and my family. Without this information, I would be in the dark until it is too late to make a difference”.

**Dean Wilson,
Atchafalaya Basinkeeper**

If you have questions about how to receive public notices from an agency, you should not hesitate to contact that agency, which may have a “public affairs” or “public participation” section. Even when citizens are in conflict with agencies such as LDEQ about environmental policies, LDEQ employees—for example, in the “public participation group”—are often friendly and helpful.

On the next page are a couple of sample letters you might use to request some types of notice. **Note:** In the letters below and elsewhere in this guide, “§” is an abbreviation for “Section.” Thus, the reference below to “La. Rev. Stat. § 30:2022(A)(1)” is to Title 30, Section 2022(A)(1) of the Louisiana Revised Statutes.

[Your First and Last Name]
[Street Address]
[City, State, Zip Code]

[Insert Date]

Administrator, Office of Environmental Services
Louisiana Department of Environmental Quality
P.O. Box 4313
Baton Rouge, Louisiana, 70821-4313

RE: Request for public notice pursuant to La. Rev. Stat. § 30:2022(A)(1)

Dear Administrator:

In accordance with Louisiana Revised Statute § 30:2022(A)(1), I request notice, by mail, of the subject matter of each application for a permit, license, registration, variance, or LPDES variance that affects the area of [Your Parish Name].

Section 30:2022 provides that, within 30 days of receiving an application for a permit, license, registration, variance, or LPDES variance, “the secretary shall promptly send a notice of the subject matter of each application to ... any public interest group or individual within the affected parish who has requested notice in writing and provided a mailing address.”

I am an individual within [Your Parish Name], and my mailing address is:

[First and Last Name]
[Street Address]
[City, State, Zip Code]

My e-mail address is: [Email Address]

Thank you.

Sincerely,

[Your Signature]
[Name]

1.2 Sample Letter Louisiana request for public notice of permit applications received

[Your First and Last Name]

[Street Address]

[City, State, Zip Code]

[Insert Date]

Administrator, Office of Environmental Services
Louisiana Department of Environmental Quality
P.O. Box 4313
Baton Rouge, Louisiana, 70821-4313

RE: Request for public notice pursuant to La. Admin. Code tit. 33, part I, § 109

Dear Administrator:

In accordance with La. Admin. Code tit. 33, part I, § 109, I request public notice, by direct mailing, of any emergency and non-emergency contamination that affects the area of [Your Parish Name].

La. Admin. Code tit. 33, Part I, § 109 provides that the regulatory agency provide public notice about contamination that may affect nearby communities. Public notice includes direct mailings.

I am an individual within [Your Parish Name], and my mailing address is:

[First and Last Name]

[Street Address]

[City, State, Zip Code]

My e-mail address is: [Email Address]

Thank you.

Sincerely,

[Your Signature]

[Name]

1.3 Sample Letter Louisiana request for public notice of air contamination

Request Public Notice

MY NOTES

This Chapter can help you exercise your right to access public records. It covers:

- Access to government information and government meetings
- How to obtain public records
- Sample letters to request public records
- Issues that may arise

Chapter 2

ACCESS GOVERNMENT INFORMATION

Generally, as a member of the public, you have a right to attend government meetings and review information in government possession. As an environmental advocate, attending meetings and reviewing public records can help you ensure that government agencies follow the law when making decisions that impact the environment.

Useful **information** may include data that agencies use in making decisions, such as:

- ✓ Research Data
- ✓ Inspections and Inspection Results
- ✓ Internal reporting
- ✓ Maps
- ✓ Industry Reports (for example, reports of monitoring results or pollution incidents)
- ✓ Permits and Permit Applications
- ✓ Environmental Assessments
- ✓ Meeting Minutes

Environmental laws and regulations requires that agencies and permit holders gather, produce, record, and report much of this information. For example, when companies violate their permits or accidentally release toxic chemicals, the law usually requires those complies to file prompt reports. Companies submit these reports to agencies such as the Louisiana Department of Environmental Quality. Also, the law often requires permit holders to monitor and file reports about their discharges to show whether or not they are complying with permit limits.

Local, state and federal government agency conduct frequent **meetings**. The law requires that many of these meeting be open to the public. These kinds of laws are generally referred to as “Government in the Sunshine” or “Open Meetings” laws.

At the **federal level**, the Government in the Sunshine Act provides for public access to some types of government meetings. This law only applies to agencies headed by a body

composed of two or more individuals, and the majority must be appointed by the President and confirmed by the U.S. Senate. For example, the U.S. Environmental Protection Agency (EPA) and U.S. Department of Interior (DOI) are exempt because each has a single head—the Administrator or the Secretary, respectively. However, agencies like the Federal Energy Regulatory Commission (FERC) or the Nuclear Regulatory Commission (NRC), which are headed by commissions, are subject to the Government in the Sunshine Act.

Regardless of the type of agency, the Government in the Sunshine Act also limits the meetings available to the public by distinguishing between the topics to be discussed and the people in attendance. The bottom line is that if the commission is undertaking official business, it must be open to the public. You can find notices of federal government meetings that are open to the public in the Federal Register. Refer to Chapter 1 to learn about subscribing to the Federal Register.

The Federal Advisory Committee Act (FACA) is another federal law regarding open access to government meetings. Specifically, FACA provides for public access and public notice in the Federal Register to most meetings of committees that advise federal agencies. For these advisory committees, FACA also requires that the minutes, records, and reports be made publically available.

Louisiana provides for public access in the Louisiana Open Meetings Law. That law says: “It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy.” La. Rev. Stat. § 42:12. Basically, Louisiana’s Open Meetings Law requires that most meetings of a Louisiana governing authority, such as a parish government or school board, be open to the public. In general, public bodies must keep written minutes of all of their open meetings. Public bodies must generally also provide advance notice of regular, special or rescheduled meetings. The notice must include the date, time, and place of the meeting, plus the meeting’s agenda. Note that this does not apply to court proceedings.

*“It is essential to the
maintenance of a
democratic society that
public business be
performed in an open and
public manner...”*

**Louisiana Open Meetings Law
La. Rev. Stat. § 42:12**

How to obtain public records

Most reports filed with the government become public records and are available for review at the agency office. Generally, if you **visit a government agency office**, you can ask the person on duty for the record. Depending on the agency, however, you may need to provide a written request to review public records (discussed below).

At the local level, agencies are usually located within the city hall, town hall, or parish council building. It may be a good idea to call in advance and confirm that the agency has the record. For example, in New Orleans, there is the

- Mayor's Office of Coastal and Environmental Affairs
- Department of Sanitation
- Board of Zoning Adjustments
- City Planning Commission
- Sewerage and Water Board
- Historic District Landmarks Commission
- Parks and Parkways

All of these offices are currently located at the same address:

1300 Perdido Street
New Orleans, LA 70112

At the state level, public records are available for viewing by the public at the Louisiana Department of Environmental Quality (LDEQ) office, located at the following address:

602 N. Fifth Street
Baton Rouge, LA 70802

Alternatively, you may be able to find the same information on an **online public government database**. Not every agency, however, has an online database. For example, LDEQ scans its paper files and makes many documents available online. The LDEQ online database is called Electronic Document Management System (EDMS) which is currently at the following internet location:

<http://edms.deq.louisiana.gov/app/doc/querydef.aspx>

LDEQ organizes this database by "agency interest" or "AI" number. Generally all permit application materials and correspondence pertaining to a facility or operation will be filed under the same AI number. The EDMS database allows you to search for a facility's AI number by name or by physical or mailing address of the facility. You can also just call up the agency and request the AI number. Usually, agency employees are available to help you use this database by phone or e-mail. The LDEQ Information & Records office phone number is currently (225) 219-LDEQ (5337) or toll free (866) 896-LDEQ.

Ways to Obtain Public Records:

- ✓ Visit the government office
- ✓ Search online public government database
- ✓ Write a letter to request ***federal*** public records
- ✓ Write a letter to request ***state*** public records

The Louisiana Department of Natural Resources (LDNR) also has an online database. LDNR's Strategic Online Natural Resources Information System (SONRIS) is currently at the following internet location (which may have changed by the time you are reading this, but it should be relatively easy to find the current web location):

<http://sonris.com/>

You may also **write a letter to request copies** of information. To request public records, you can also make a written request to the government agency. This is commonly known as a Public Records Request (for state agencies) or Freedom of Information Act request (for federal agencies).

Some agencies have **on-line forms for document requests**. LDEQ's on-line form is here: <https://edms.deq.louisiana.gov/prr/RequestForm.aspx> (although this web address is subject to change). An online form for requesting documents from federal agencies is here: <https://foiaonline.regulations.gov/foia/action/public/home> (which again is subject to change).

Freedom of Information Act Requests

At the federal level, the statute that grants the right to review public records is the Freedom of Information Act (FOIA). The FOIA provides that "any person" can request information from the government without requiring identification of the requestor or an explanation of why the requestor wants the information. Limitations and exceptions restrict public access to some categories of information, however, such as:

- X** Documents classified as secret in the interest of national defense or foreign policy;
- X** Documents related solely to internal personnel rules and practices;
- X** Confidential enforcement information;
- X** Confidential business information;
- X** Inter-agency or intra-agency communications, except under certain circumstances;
- X** Personnel, medical or similar files that, if disclosed, would constitute an invasion of privacy; and,
- X** Certain information concerning gas or oil wells.

However, if this protected information can easily be separated or removed from the requested files, the agency should make the remainder available for public viewing upon request.

Once the agency receives a FOIA request, it has 20 business days to reply with its decision of whether it will comply with no automatic extensions. Due to the high volume of requests in some offices, though, agencies typically take more time fulfill requests. To save time, you may

want to make sure the information is not already available online, in a library or in an agency reading room.

To compensate for the time and effort spent in reviewing and copying requested documents, federal agencies may charge for copying costs and some other costs. But agencies often waive or reduce fees when providing information that will benefit the general public by assisting citizens in understanding how their government works. Your FOIA request should include a request that the agency waive fees.

Each federal agency has its own regulations outlining its FOIA program, including procedures for the disclosure of records, confidentiality, fees and exemptions. You may want to check the agency's rules to be sure that your request meets its requirements.

Louisiana Public Records Requests

The Louisiana equivalent of the FOIA is the Louisiana Public Records Act. It grants Louisiana citizens of at least 18 years of age the right to review information used or prepared for use in any action taken by any form of Louisiana government: state, parish, municipal or otherwise. The LDEQ, Louisiana Public Service Commission (LPSC), and Department of Transportation (DOTD) all have forms for citizens to use when requesting public records. Other agencies require a letter specifying the information that you want to review. Regardless of the manner of request, all agencies subject to the Public Records Act may not charge more than the copying rates that the Act mandates.

The Public Records Act allows people to inspect, copy, reproduce or obtain a reproduction of almost any public record, except those that are protected from disclosure by legal exemptions. The Act is found in the Louisiana Revised Statutes, at La. Rev. Stat. § 44:1-41.

Sample Letters

To get you started with your letter, below are two sample letter. Generally, if you are asking for information from a federal agency, then use the Freedom of Information Act template. If you are asking for information from a Louisiana or local agency, then use the Public Records Act template.

As always, do not hesitate to call agency personnel and ask for help in obtaining documents. Often, they will be friendly and helpful. It is best, however, to know your rights and be prepared to write a letter or call a lawyer, since occasionally government personnel may try to withhold information that the law entitles you to see.

[Your First and Last Name]
[Street Address]
[City, State, Zip Code]

[Insert Date]

[Insert Name of Agency]
Attn: FOIA Officer
[Insert Address of Agency]
[Insert City, State, Zip Code]

RE: Request for public records pursuant to the Freedom of Information Act, 5 U.S.C. § 552

To the Freedom of Information Act Officer:

In accordance with the Freedom of Information Act, 5 U.S.C. § 552, I request copies of the following: *[Insert a list of the specific documents you are requesting or describe the information you need as specifically as you can. For example:*

- 1. Copies of any documents that assess the potential environmental effects which [specific action, including name of company] may have on the [name of resource]; and*
- 2. Copies of [Company's permit applications] to the Agency and any related information, correspondence or documents.]*

Please waive any fees connected with this request under 5 U.S.C. § 552(a)(4)(A)(iii) since disclosure of the information I have requested is in the public interest. The information I requested is likely to contribute significantly to public understanding of the operations or activities of the government. This information will not be used for my financial or commercial gain.

If for any reason my request for information cannot be handled free of charge, please notify me immediately of the reason behind the denial and the cost that will be involved **prior to any copying.**

I respectfully request a response within 20 working days. Also, if any part of this request is denied, please inform me of the specific grounds for that denial. Finally, if part of a document that I requested is exempt from disclosure, please provide me with the non-exempt portions.

Thank you for your assistance. Please call me at *[insert phone number with area code]* or email me at *[insert email address]* if clarification of this request is necessary.

Sincerely,
[Your Signature]
[Name]

2.1 Sample Letter Request for federal public records pursuant to Freedom of Information Act

[Your First and Last Name]
[Street Address]
[City, State, Zip Code]

[Insert Date]

[Insert Name of Agency]
Attn: Custodian of Records
[Insert Agency's Address]
[Insert City, LA, Zip Code of Agency]

Re: Request for public records pursuant to La. Rev. Stat. § 44:1, et seq.

Dear Custodian of Records:

In accordance with the Public Records Law of Louisiana, La. Rev. Stat. § 44:1, et seq., I request copies of the following public records [or access to the following public records for review and copying]:

[List either specific document(s) you are requesting or, if you don't know, describe the information you are requesting as specifically as possible.]

La. Rev. Stat. § 44:31 provides that “Providing access to public records is a responsibility and duty” Because you are a “public official” or “head of a public body having custody or control of a public record,” it is your duty as “custodian” of public records to respond—or authorize a representative to respond—to my request. La. Rev. Stat. § 44:1(A)(3).

The law broadly defines the term “public records” to include, among other things, writings, tapes, recordings, copies, and photographs, regardless of physical form or characteristics, including information contained in electronic data processing equipment [such as e-mails]. La. Rev. Stat. § 44:1.

If you raise a question as to whether the record requested is a public record, the law requires that you make any assertion of exemption in writing within three days, exclusive of Saturdays, Sundays, and legal public holidays, of the receipt of the request and include a reference to the basis under law. La. Rev. Stat. § 44:32(D). If the records I have requested are not immediately available, the law requires that you fix a day and hour within three days, exclusive of Saturdays, Sundays, and legal public holidays when you will make the records available. La. Rev. Stat. § 44:33(B).

[Continued on next page]

[Continued from previous page]

Please note also that “Any person who has been denied the right to inspect or copy a record under the provisions of this Chapter, either by a final determination of the custodian or by the passage of five days, exclusive of Saturdays, Sundays, and legal public holidays, from the date of his request without receiving a final determination in writing by the custodian, may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney's fees, costs and damages.” La. Rev. State. 44:35.

Please notify me when the public records are compiled and available for review, and please provide me with notification as to how much it will cost to have the records copied—prior to any copying. Despite my right to have access to these records within three business days, I invite you to give me a call if you wish to discuss an alternative deadline. Thank you for your assistance. Please contact me at _____ with any questions or concerns, or if you would like to discuss an alternate deadline for producing the records.

Sincerely,

[Your Signature]

[Name]

2.2 Sample Letter Request for Public Records pursuant to Louisiana Public Records Law

Issues That May Arise

There are some common issues that may arise when you request public records or access to a government meeting. Here are some recommended solutions.

A. The run around

Nobody seems to be the “right” person to address your concern, regardless of who you talk to. The solution is to **be persistent**. Eventually you will get the right person on the phone and receive the assistance you need. Meanwhile, take notes to track your research. Write the name of each person you speak to, what they say, and the time and date you spoke with them. If someone agrees to get back to you with public information, follow up the conversation with a letter or email confirming the time date and information you are expecting.

It is also in your best interest to stay calm and be pleasant. People are generally more receptive to assisting you in your quest for information or action if you are respectful and polite. If you make several requests from the same person and are always polite, you will inevitably establish a relationship with the custodian of the records or the permit writer. This can only work to your advantage.

B. Excessive fees for copying the files

At all levels, the agency is allowed to charge you a reasonable fee for the use of its copy machine. With respect to labor cost, the solution is different depending on the agency and the level of government.

For a Freedom of Information Act (FOIA) request to a federal agency, the agency can only recover the labor costs associated with the research and review of the documents requested, not the labor associated with the actual copying itself. Federal law mandates the rates that can be charged.

At the state and local level, however, several cases and an opinion issued by the Louisiana Attorney General **prohibit labor fees** for copying and reviewing unless they take place after regular business hours. If the agency denies your request for free copies or reduced fees, you can appeal that decision.

C. Lengthy Response Time or the Agency Refuses or Is Unable to Find the Document You Requested

Under FOIA, the agency has 20 working days to respond to your request. However, sometimes the agency gets so backlogged that it cannot meet that deadline. If you need information sooner than the agency can provide it, ask if you can look through the files yourself.

If the agency denies your FOIA request or it does not respond within the statutory 20-working day deadline, here are some steps you can take.

First, you should **send a follow-up letter** to the agency reminding it that it missed its deadline and offering to assist the agency in any way you can. Keep copies of your correspondence with the agency, so in the event you go to court, you have proof that you were reasonable in your request.

Second, you may **file an administrative appeal** to the head of the agency. Deadlines for filing an appeal are different according to each agency's FOIA regulations located in the Code of Federal Regulations (CFR). Occasionally, the agency from which you are requesting information refuses to fill your request for documents or is simply unable to locate them. Under the Louisiana Public Records Law, the custodian who deals with your request must provide written reasons, including the legal basis, for the denial within three working days. As we discussed earlier, if the requested information is exempt from the list of accessible information due to security or privacy

concerns, then you might want to ask the agency to remove the confidential parts and let you view the rest.

Third, if the agency is uncooperative and maintains that they cannot find the information you have requested, or refuses to let you view it, you can enforce your right and ***seek judicial review*** of the agency's decision in the appropriate federal court. If you decide to file a civil suit for the denial of access to public records, the custodian has the burden of proving that the record is exempted from public access laws. The court is required to render a decision as soon as possible. If you win, the court should award reasonable attorney's fees and other costs. The custodian will not be held personally liable for these fees and costs if he or she acted on advice from a lawyer representing the public body. Additionally, the court also may award you up to \$100 per day if the custodian arbitrarily failed to provide written explanation for denying your request. If the court finds that the custodian arbitrarily or capriciously withheld a public record, it also can award actual damages. However, you must prove that the damages resulted from the custodian's action.

Open Records Requests

MY NOTES

Part II

TAKING ACTION

This Chapter can help you report environmental problems and request inspection. It covers:

- Documenting the problem (if possible)
- Methods for filing a complaint
- Sample complaint letter
- Other approaches to reporting the problem

Chapter 3

REPORT THE PROBLEM

Are you experiencing or witnessing environmental pollution? Documenting the problem is a great first step toward preparing a report or formal complaint. Documentation can be as simple as taking a photograph. Some of the best ways to document violations are to **take a photo** or **video record** the incident. Preferably, your photo or video includes a time and date stamp—otherwise, be sure to make a note of the time and date. Also, while your memory is fresh, **write** down what you see or experience, again including the date and time.

When documenting a problem, include as much relevant detail as practical in your notes. Answering the “4Ws”—what, where, when, and who— is a good way to organize the information.

1. **What** is the problem? For example,
 - ☐ chemical spill or hazardous waste activity
 - ☐ bad smell
 - ☐ dumping
 - ☐ flaring
 - ☐ explosion
 - ☐ filling of wetland area
 - ☐ raw sewerage
 - ☐ noise and dust
 - ☐ other unusual activity;
2. **Where** is the problem? For example,
 - ☐ Street address
 - ☐ Name or description of the water body (lake, river, bayou, etc.)
 - ☐ Longitudinal and Latitudinal coordinates – a smart phone may be able to provide this information;
3. **When** did it happen? For example,
 - ☐ Date and time of the violation or incident
 - ☐ How long did the incident last?
 - ☐ Is it ongoing?

4. **Who** is responsible (if you know)?

For example,

- ☐ Name or address of a facility, operator, individual, corporation;
- ☐ Why do you think that person or company is responsible?

Methods for filing a complaint

After documenting the problem, you can report it to a government agency with the authority to receive reports or investigate. Here's a listing of the large Louisiana and local environmental agencies:

- National Response Center (NRC)
- U.S. Environmental Protection Agency (EPA)
- Louisiana Department of Environmental Quality (LDEQ)
- Louisiana Department of Natural Resources (LDNR)
- U.S. Army Corps of Engineers – Orleans District or Vicksburg District
- Your local Sewerage board or Water board
- Department of Health and Hospitals

Methods for filing a complaint:

- ✓ In person visit
- ✓ Phone call
- ✓ Online website
- ✓ E-mail
- ✓ Direct Mail

There are various methods to report an environmental problem to a government agency. For example, you can **call** or make an **in person visit** to the government office. Regardless of how you submit your report, keep a copy of your report and make notes of your phone calls. Your notes should include the full name and title of the person who took down your report, as well as the time and date.

Some agencies, such as the Louisiana Department of Environmental Quality, provide an **online form** to file your complaint. For example, LDEQ's complaint form is currently at the following address (which may have changed by the time you are reading this, in which case you can use a web search engine (for example, Google) to locate the form):

<http://www.deq.louisiana.gov/apps/forms/irf/forms/complaint/complaintForm.asp?Complaint=2&agree=>

Louisiana is within the jurisdiction of EPA Region 6. The online website is currently located at the following address:

<http://www2.epa.gov/enforcement/report-environmental-violations>

"When I file a complaint, I provide facts about what I witness and documentation if I have any. I demand a response and I don't take "no" for an answer."

**Cheryl Slavant
Ouachita Riverkeeper**

Another way to submit a report is to draft a letter and submit it by **email** or **direct mail**. A complaint letter will usually consist of your documentation of the problem and a request for an investigation or corrective action. It is typical to request further investigation by the government agency.

Submit the letter to the same government agency that maintains the public records about the polluter or the specific type of pollution. This makes sense because your report should become part of the public records. But do not hesitate to submit the same report to multiple government offices. It is almost always a good idea to include the National Response Center (and it only costs an extra postage stamp).

On the following page is an example of a letter reporting a pollutant discharge into a public water body.

[First Name, Last Name]
[Street Address]
[City, State, Zip Code]

[Date]

Louisiana Department of Environmental Quality – Office of Environmental Compliance
Attn: Administrator, Inspection Division
P.O. Box 4312
Baton Rouge, LA 70821-4312

Re: Request for inspection about a pollutant discharge into a public water body

Dear Sir or Madam,

I am writing report an environmental problem and request a follow-up investigation. The discharge came from [Name of facility, if known], located at [Address of facility]. [Insert additional pertinent information, of available, about the facility. For example, is it located near a school or residences?]

On [Date], I saw [Describe the discharge, including where it came from and what it discharged into]. The substance [Describe the discharge—does it have an odor, attract insects, a color? Etc.]

I am writing to request that LDEQ inspect the facility.

Please find attached [Attach any pertinent photographs or other helpful information]. You may contact me for further information. The best way to reach me is [Phone, email, or mail] at [Provide contact information].

Sincerely,

[Signature]

3.1 Sample Letter Complaint about a water pollutant discharge pursuant to the Clean Water Act, 33 U.S.C. § 1311(a)

Other Approaches to Reporting the Problem

You might consider submitting a copy of your report to your **elected officials**. Contact your city or parish council representative and your state representative or senator. As a constituent, your concerns should be of interest to your representatives.

You might also send a copy to a local grassroots **advocacy organization**. Some environmental advocacy organizations in Louisiana might help you prepare or submit a complaint. Some organizations may have experience addressing your type of concern.

Under some circumstances, it may make sense to submit an “environmental justice” complaint to EPA’s Office of Civil Rights and/or the United Nations Committee on the Elimination of Racial Discrimination.

EPA’s web page explains that the **EPA Office of Civil Rights (OCR)** “enforces federal civil rights laws that prohibit discrimination against members of the public by recipients of EPA funds.” Many state agencies—including LDEQ—are “recipients of EPA funds.” OCR has authority to investigate citizen complaints about government decisions that have “the effect” of subjecting people to racial discrimination or denying minorities the benefits of an environmental protection program. 40 C.F.R. § 7.35(b). Thus, your complaint’s focus can be on discriminatory effect, such as disparate impact, instead of (or in addition to) discriminatory intent. Under EPA’s regulations, an environmental justice complaint must “be filed within 180 calendar days of the alleged discriminatory acts, unless the OCR waives the time limit for good cause.” 40 C.F.R. § 7.120(b)(2). More information is on EPA’s web page: <http://www.epa.gov/ocr>.

Other federal agencies besides EPA provide funding for state programs that may have disproportionate impacts on minority residents. For example, approval of a new highway may isolate or otherwise damage minority residents. Thus, federal agencies besides EPA also have civil rights regulations that provide for “environmental justice” complaints. For example, the web page for Federal Highway Administration’s Office of Civil Rights is here: <https://www.fhwa.dot.gov/civilrights/>.

The **United Nations Committee on the Elimination of Racial Discrimination (CERD)** monitors implementation of the “Convention on the Elimination of All Forms of Racial Discrimination.” The U.S. government submits reports to CERD on issues that include environmental justice. U.S. citizens have an opportunity to submit complaint. Citizens may also attend review meetings (in Geneva, Switzerland) and make oral comments. CERD has no legal obligation, however, to follow up on an environmental justice complaint.

*Other approaches
include communication
with:*

- ✓ Elected officials
- ✓ Local environmental advocacy organizations
- ✓ EPA’s Office of Civil Rights
- ✓ International human rights agency

Report the Problem

MY NOTES

*This Chapter can help you
exercise your right to provide
effective comments:*

- *Calculating the Public
Comment Period
Deadline*
- *Issues that may arise*
- *Written Notice of a Final
Decision*
- *How to prepare a
written comment*
- *How to prepare a verbal
comment for a Public
Hearing (if available)*

Chapter 4

PUBLIC COMMENT

Government agencies evaluate permit applications and make rules (also known as regulations). As part of the evaluation process, government agencies often seek public input. To get public input, government agencies often issue a public notice announcing a “public comment period”. Refer to Chapter 1, “Notice”, to learn about receiving these notices by direct mail or email.

A public comment period is a length of time during which a government agency will accept feedback and input from the public about a proposed permit or regulation. During this time frame, the government agency will accept **written comments** from individuals or organizations about a proposed action. Different government agencies may set different lengths of time for the public comment period.

A public hearing is another opportunity to provide input. But do not wait for a **public hearing** to submit a comment. The government agency may choose to provide a public hearing during the public comment period, but this is not guaranteed. You may request a public hearing in your comments.

Public comments submitted before the deadline go into the administrative record. Late comments, although otherwise perfect, may become irrelevant if submitted after the deadline passes. In one recent case an agency refused to consider comments that were 25 seconds late. Furthermore, some courts have decided that if concerned residents do not raise a particular issue during the comment period, then the particular issue cannot be used to challenge the agency’s final decision on the permit or the rule. Therefore, preserve your issue by submitting a comment before the deadline.

When possible, begin preparing your written comment before the public notice is actually issued. Even before the publication of a comment period, you are entitled to request a copy of the permit application from the permitting agency or download a copy on the agency’s electronic data management system, if any.

Calculating the Public Comment Period Deadline

It is important to keep in mind that the deadline marks the day by which your comment must be **received**. It is usually not enough to postmark your comments by the deadline. Some agencies will accept public comments by e-mail or fax, but check with the agency before relying on that method of delivery. If you do e-mail your comments, it is best to send a follow-up copy by mail.

To figure out the **submission deadline**, you will need a copy of the public notice and possibly a calendar. The public notice usually states a deadline date, including when the comment period begins and ends. **Important:** often, LDEQ requires that residents submit their comments by a particular time of day, usually 4:30 p.m.

Sometimes, the public notice will only state a length of time (for example, 30 days, 60 days) – in which case you must count the days on your calendar. When in doubt, err on the side of sending your comments in early!

Issues that may arise

As hard as you might try, sometimes you do not have enough time to prepare your comments. If so, ask the agency for an **extension**. It is a good idea to ask for any extension early in the public comment period because the agency may fail to decide on a last-minute request.

In your request, make sure to give the agency reasons you need the extension. Showing there is a local interest in the issue may help persuade the agency that the time extension is justified. If possible, have a local elected official request the time extension.

In general, you can request the extension by phone, letter or in person at a public hearing. Regardless of the method, always get written confirmation of the extension.

Make sure that you plan for all deadlines that may apply to opportunities to influence the decision. For instance, if you are working on a written public comment to the Louisiana Department of Environmental Quality (LDEQ) about a Clean Air Act Title V air permit application, you may have an opportunity to petition EPA to object to that permit. There will probably be separate deadlines for commenting to LDEQ and submitting a petition to EPA. The deadline for filing the petition begins to run on the date of the EPA's receipt of the proposed permit.

*"I submit written
comments and speak up
at public hearings
because I know that it is
on the record. And if I
disagree with the
government agency
final decision, then I will
have preserved my
concerns to bring up
again in court".*

**Burghart Turner,
Former Councilman
Plaquemines Parish**

Normally, EPA Region 6 posts the dates it receives such permits (“EPA Review Start Date”) on its web page, along with the petition deadline. Currently this information can be found at the following location (which is subject to change):

<http://yosemite.epa.gov/r6/Apermit.nsf/AirLA?OpenView&Start=1&Count=4000&Expand=1#1>

If you have questions about a particular deadline, state or federal, contact the permitting agency for clarification. You can usually find the name of the contact person with information about the proposed action on the public notice.

Written Notice of a Final Decision

Louisiana Revised Statute § 30:2050.23(C)(1) provides that regulatory government agency mail notice of the final permit decision to any person that submits a **written** comment. Specifically, the law states that “a person who submits a written comment shall be given [notice] at the address in...the comment”. By law, LDEQ must notify any person or organization submitting comments, but the U.S. Army Corps of Engineers does not have the same requirement. Instead, as a member of the public, you might have to call the agency or check its website.

To request notice of a final decision in response to your **verbal comment**, you can make the request during your verbal comment time. Sometimes, the agency may also provide a sign in sheet where you can request notice of the final permit decision.

How to Prepare a Written Comment

Do not be intimidated about submitting public comments. As a potentially affected neighbor, you are uniquely qualified to speak about your experience and concerns about industrial activities in your area. Also, the public comment period is an opportunity to create a record that you can use to challenge an unfavorable decision later on.

The only hard and fast rules are 1) you must write the comments and submit them by the deadline; and 2) it is always a bad idea to include rude language or to insult the agency that will be making the decision. Otherwise, there is no right or wrong way to write comments, nor do they have to be perfect. A comment can vary in length between a single page and a small book. Comments may include facts, opinions, questions and supporting documents. You can raise as many issues as you’d like – fact based and legal. It is a good idea to attach supporting material, of any, so that your support becomes part of the agency record.

When drafting a written comment, we suggest focusing on two primary goals. **First**, convince the agency to do the right thing now, before a final decision has been made on the permit or rule. **Second** – in case the agency fails to do the right thing – use your comments to preserve your arguments for a potential appeal or petition to veto the agency’s decision. This includes making and supporting factual assertions, telling the agency exactly what you want it to do, and responding to your opponents’ points.

The following is a checklist of information and topics to include in your comments.

ALWAYS include:

- ❑ Your name and address
- ❑ Name of group you are speaking on behalf of (if relevant)
- ❑ A statement explaining why you are interested or concerned, and how the proposed action might affect your interests.
- ❑ Name, address and location of permit applicant, facility or activity (refer to the public notice)
- ❑ Any permit identification or reference number (refer to the public notice)
- ❑ Any other information required by the public notice
- ❑ A statement of what you want the agency to do regarding the proposed action
 - For example, deny the permit, prepare an environmental impact statement, hold a public hearing locally, change the rule, etc.
 - Note: you can have multiple requests
- ❑ A request that the agency notify you in writing of the permit decision.
 - Note: This is not applicable to rules. Instead, you have to keep check the daily register for notice of the final rule. Refer to Chapter 1 for information about signing up for the Federal and Louisiana email “listserve”.
- ❑ Date and Sign your comment

MAYBE bring up the following issues in your comment, especially if it is relevant:

- ❑ How will the aesthetics of the area considered for the project or rule be affected?
- ❑ What will be the impacts on air quality after the permit is granted or the rule goes into effect?
- ❑ Are there alternative methods or locations to conduct the activity?
- ❑ Do the economics of the activity make sense?
- ❑ Will the project harm endangered or threatened species?
- ❑ Will the proposed activity destroy important habitat?
- ❑ For federal actions, has an environmental impact statement been performed?
- ❑ Are there environmental justice issues involved?
- ❑ Are there historical or archeological sites that will be harmed by the proposed activity?
- ❑ Has the agency considered the applicant’s history of violations?

- ❑ Will groundwater, drinking or surface waters be threatened by the project or new rule?
- ❑ Will the activity lead to land or soil contamination?
- ❑ Are there legal reasons why this rule or permit must be denied?
- ❑ Are there problems with the proposed location?
- ❑ Has the agency considered the long-term effects?
- ❑ Will exposure to radiation be a likely result from the activity?
- ❑ What will be required to ensure safe operation?
- ❑ Have the risks in transporting substances to and from the facility been considered?
- ❑ For state permits, has the Louisiana regulatory agency performed its duty as “**public trustee**” under the Louisiana Constitution (Article IX, Section I)? To do so, the agency must determine:
 1. whether the potential and real adverse environmental effects of the proposed project have been avoided to the maximum extent possible;
 2. whether a cost benefit analysis of the environmental impact cost balanced against the social and economic benefits of the project demonstrate that the latter outweighs the former; and
 3. whether there are alternative projects or alternative sites or mitigating measures which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits.

MAYBE include the following attachments to support your position:

- ❑ Photographs and/or videotapes.
- ❑ Maps, charts, tables, graphs.
- ❑ Copies of enforcement actions against applicant.
- ❑ Technical or scientific articles.
- ❑ Government reports.
- ❑ Signed and dated statements from former employees of the applicant or from others with special knowledge of problems with the facility.

How to Prepare a Verbal Comment for a Public Hearing

If you would like to speak at a public hearing, then you should sign up at the beginning of the meeting. If you do not sign up, there may still be an opportunity to speak after people that signed up. The agenda format may vary depending on whether it is a zoning board hearing, a state agency hearing, etc. Typically, however, proponents of a permit or rule are given a chance to speak first. Then opponents of a permit application will have an opportunity to speak for a designated amount of time. Your verbal comment and any attachments you offer will go be recorded and go into the administrative record.

Typically, verbal comments are limited to 5 minutes with the option of speaking again later. You may use this time to highlight the most important points in your written comment or present an outline overview of your written comment. Importantly, if you want written notice of the final decision, then make your request known in your verbal comment. Sometimes you may also have the option of signing in at the door to request notice of the final decision.

Possible Outline for Comment at Public Hearing

First and Last Name: _____

Home or Work Address: _____

Part 1. I am affected by this proposed rule or permit application because:

- ☐ I live within _____ (miles) of the source of pollution
- ☐ I engage in the following activities near the source of pollution:

(For example, swim, fish, drink, hike, research, go to school, work, etc.)

Part 2. This proposed rule or permit application should not be approved because:

1. [for example, it violates the Louisiana Constitution Article IX, Section I which states that “The natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people.” Here, the permit applicants seek to...]

2. [for example, it violates local zoning laws in the following way...]

Part 3. I would like to submit the following items for the record:

[For example, pictures, videos, a written comment, etc.]

Part 4. Please provide written notice of your final permit decision to me at the following address:

[Your mailing address]

4.1 Sample Note Card Preparation note card for Verbal Comment at a Public Hearing

PUBLIC COMMENT

MY NOTES

This Chapter can help you exercise your right to participate in the law making process. It discusses:

- *Local ordinances*
- *Louisiana lawmaking*
- *Agency rulemaking (also known as regulation)*

Chapter 5

POLICY ADVOCACY

Policy advocacy may involve monitoring, drafting, and commenting on new and existing laws. You can participate in policy advocacy for environmental protection at the local, state, or federal level. Refer to Chapter 1 to learn about getting notice about new laws, such as proposed rules (also known as regulations) published by government agencies.

Local Policymaking

In general, local government—such as Police Juries or City or Parish Councils—are the **first line of defense** against land uses that are inconsistent with preserving the quality of life in communities. Local governments usually control zoning, which can be crucial to maintaining the residential character of neighborhoods. Local governments also usually control building permits. By the time an issue gets to state or federal agencies, those agencies will often resist making decisions to protect the character of local communities. This is because state and federal officials often assume that it is fair to rely on the judgment of **local** officials about these issues. (There are circumstances, however, in which state or federal law **preempts** local regulations and therefore prevents local officials from protecting their constituents.)

At the **local** government level, laws are called “**ordinances**.” Generally, ordinances regulate issues not covered by a state or federal law. Local governments sometimes have the option of creating stricter requirements than those contained in state or federal laws. Additionally, local governments may have responsibility for programs that the state government has delegated. In those situations, the local government must act in accordance with the goals of the state law. In short, local governments have important lawmaking authority that you can influence.

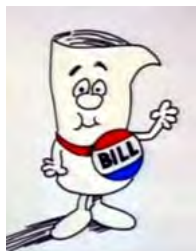
Local government officials are likely to be more accessible to you than state or federal agency personnel. It is often possible

to have a personal conversation with a local decision-maker. Also, local government officials tend to be sensitive to the concerns of voters. So when trying to influence local government, there is great strength in numbers.

Residents across the United States participate in local government lawmaking at City Hall or the Parish Administration Buildings. For example, residents comment on ordinances concerning planning and zoning, which may determine the distance between homes and parks and landfills, and may determine the availability of green space, or sidewalks, or tree cover. Zoning ordinances are local laws about land use, such as designation for residential, commercial, or industrial use. Louisiana Parishes have planning and zoning departments. These departments typically draft the zoning ordinances, including a comprehensive zoning ordinance (CZO). Parish Councils and City Councils then enact these zoning ordinances. When somebody wants a variance from the zoning law, they typically make a request to the Zoning Board of Adjustments or a Commission of the local parish or town. As residents, you can participate in your local policymaking process by advocating for zoning ordinances that protect your health, land, and water.

Young people can also participate in local environmental policymaking at their high schools, colleges or universities. For example, through student government associations or through environmental student groups, they can provide input on recycling programs, or Leadership in Environmental and Energy Design (LEED) building certification for new construction.

What is your local area? What are ordinances or policies that can help protect your land, air, or water?



Participate in Louisiana lawmaking

As a constituent, you can assist your elected official and suggest draft laws. At the **Louisiana** state level, laws are called **statutes**. Elected officials, such as your senator or state representative, can introduce bills to create new or amended statutes.

"Policy Advocacy is basically ordinary people demanding more protective laws or regulatory standards. It doesn't just apply to one, but to all. When we demanded a Louisiana ban on toxic school building, we were trying to protect children at Booker T. Washington AND children across Louisiana, forever".

**Monique Harden,
Advocates for
Environmental Human
Rights**

2015 Regular Session

HOUSE BILL NO. 180

BY REPRESENTATIVE BOUIE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC FACILITIES: Prohibits the construction of schools on former waste sites

1 AN ACT

2 To enact R.S. 17:173, relative to the construction of schools; to prohibit the construction of

3 certain schools on certain former waste sites; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 17:173 is hereby enacted to read as follows:

6 §173. Construction of schools on waste sites prohibited

7 The governing authority of any public school or school in a special school

8 district in the state shall not approve, authorize, or implement a plan for the

9 construction of a school for grades pre-kindergarten through twelfth grade on land

10 formerly used in the disposal, storage, or deposition of sewage sludge, solid waste,

11 or hazardous waste, as defined in the Louisiana Environmental Quality Act, R.S.

12 30:2001 et seq., or "oilfield wastes", as defined in R.S. 30:73.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 180 Original

2015 Regular Session

Bouie

Abstract: Prohibits the construction of any pre-K through 12th grade school on property formerly used as a waste site.

Proposed law prohibits the governing authority of any public school or school in a special school district from approving, authorizing, or implementing a plan for the construction of a school for grades pre-K-12 on land formerly used in the disposal, storage, or deposition of sewage sludge, solid waste, hazardous waste, or oilfield waste.

(Adds R.S. 17:173)

Page 1 of 1

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

5.1 Sample Bill Louisiana bill to ban school building on toxic dump sites drafted by Advocates for Environmental Human Rights through a community participatory process and introduced by Louisiana state representative

Participate in agency rulemaking

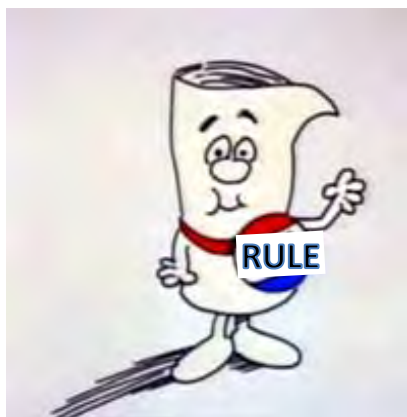
Rules (also known as regulations) are important tools used to protect the environment. Regulations have the force of law. Regulations may be created by federal or Louisiana administrative agencies. The Environmental Protection Agency (EPA) is a federal agency. The Louisiana Department of Environmental Quality (LDEQ) is a Louisiana agency.

Federal or Louisiana state legislators pass statutes to protect public health and the environment. These statutes direct the responsible administrative agencies to fix a particular problem or address a specific issue. But these statutes do not include all the details. Therefore agencies will draft regulations to set specific laws pursuant to the statute. Then, the agency carries out and enforces the regulations.

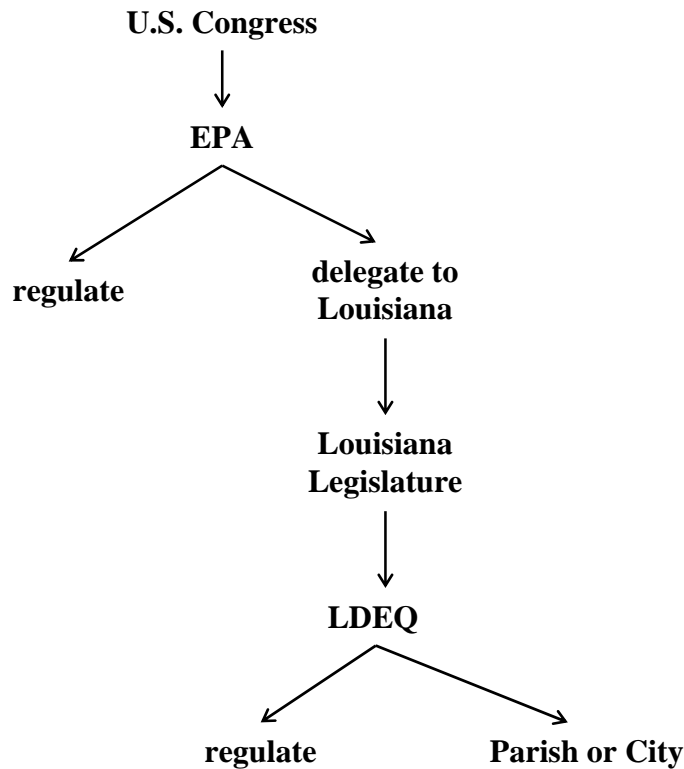
For instance, when the U.S. Congress realized hazardous waste was a serious problem, it enacted the Resource Conservation and Recovery Act (RCRA). The Act did not tell the U.S. Environmental Protection Agency (EPA) precisely how to solve the problem. Instead, RCRA was primarily a set of goals that Congress wanted to achieve. Congress left it up to EPA and the states to fill in the gaps with regulations. Regulations are enforceable by law.

Ways to Participate in Agency Rulemaking:

- ✓ Comment on a proposed rule
- ✓ Speak at a public hearing
- ✓ Petition for rulemaking
- ✓ Appeal a final rule to a court



Louisiana and federal government agencies create and amend rules in accordance with the enabling statutes. State agencies, such as the Louisiana Department of Environmental Quality (LDEQ) or the Louisiana Department of Natural Resources (LDNR) are also responsible for creating and amending rules that implement federal programs—such as the Clean Air Act or Clean Water Act.



For instance, when the U.S. Congress passed the Clean Water Act, it decided that state agencies should carry out most day-to-day regulatory functions. The U.S. Environmental Protection Agency (EPA) drafted a regulatory program and authorized states to implement state regulations that are consistent with the federal regulations. Today, the Louisiana Department of Environmental Quality runs the permit program for water pollution known as the Louisiana Pollutant Discharge Elimination System (LPDES). The LDEQ regulations for the LPDES permit program have the force of law.

Is a regulatory change needed for protection of your environment? You can **petition** a federal or Louisiana administrative agency for rulemaking. The federal Administrative Procedure Act (APA), 5 U.S.C. § 553(e), affords “interested person[s] the right to petition for the issuance, amendment, or repeal of a rule,” that is, to file a petition for rulemaking to an agency. Similarly, Louisiana’s Administrative Procedure Act provides that “an interested person may petition an agency requesting the adoption, amendment, or repeal of a rule.” La. Rev. Stat. § 49:953(C). The law requires the Louisiana agency to respond within 90 days.

Alternatively, you might wish to **comment on a proposed rule** that the agency has drafted. Public comments submitted in response to proposed rules are not very different from those written to challenge proposed permits. Refer to Chapter 4 for information about drafting a public comment to support or challenge a proposed permit.

Public notice of proposed regulations are published in the *Federal Register* or the *Louisiana Register* instead of being mailed directly to you. The *Federal Register* is the daily publication for Rules, Proposed Rules & Notices of federal agencies and organizations. Currently, the sign-up page is located at the following internet address (which may have changed by the time you are reading this):

<https://www.federalregister.gov/articles/current>

For more information on the Louisiana Register, visit the website (note: by the time you read this, the address may have changed).

<http://www.doa.la.gov/Pages/osr/Index.aspx>

On the next page is the first page of a petition for rulemaking to EPA.

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF WATER**

Petition for Rulemaking
Under the Clean Water Act

Numeric Water Quality Standards for
Nitrogen and Phosphorus and TMDLs for the
Mississippi River and the Gulf of Mexico

I. SUMMARY

Scientists and the United States Environmental Protection Agency (“EPA”) have known for decades that many marine and fresh water bodies of the United States are being harmed by nitrogen and phosphorus pollution. Eight years ago, EPA explained that excess levels of nitrogen and phosphorus are responsible for impairing the Gulf of Mexico and a huge list of waters in nearly every state.¹ Nitrogen and phosphorus pollution causes or contributes to low dissolved oxygen levels and has numerous adverse effects on aquatic life and on the economic, aesthetic, and recreational value of our rivers, lakes, and streams.

Human health effects have also been traced to nitrogen and phosphorus pollution. Excess nitrogen and phosphorus lead to high levels of algae in the water. Before such water is suitable for drinking it must be treated, and cancer-causing trihalomethanes are produced as an unwanted side effect during the treatment process.² Further, nitrogen and phosphorus pollution affects

¹ Nutrient Criteria, Technical Guidance Manual, Rivers and Streams, EPA -822-B-00-002 (July 2000) (“Nutrient Criteria Guidance”).

² Nutrient Criteria Guidance at 4-5.

5.2 Sample: First page of a Petition for rulemaking to set numeric water quality standards for nitrogen and phosphorus and Total Maximum Daily Loads for the Mississippi River and the Gulf of Mexico submitted by the Mississippi River Collaborative to the Environmental Protection Agency in 2008.

Policy Advocacy

MY NOTES

This Chapter will help you exercise your right to file a lawsuit. Here's some basic information about filing a lawsuit:

- *Finding an environmental lawyer*
- *Basic structure of the courts*
- *Different Types of Legal Action*

Chapter 6

LITIGATION

Are you interested in advocating for environmental protection in court? If so, this chapter can help you understand some aspects of litigation. Litigation is a unique type of advocacy that involves navigating the judicial system and possibly arguing in front of a judge.

While some advocates may choose to represent themselves in court. Generally, it is a good idea to **find an attorney** with environmental litigation experience. Many environmental cases involve a detailed understanding of environmental law, administrative law, civil procedure, and tort law. Therefore, when interviewing for an attorney, you may want to inquire whether or not the person has received training in these areas of law. Most attorneys will have received a general education in civil procedure and tort law from law school. Environmental and administrative law training is more specialized. In general, use your common sense when finding a lawyer.

There are different types of environmental attorneys. Private bar attorneys are more likely to handle toxic tort cases. Government attorneys represent the interest of the government agencies. Even when that interest aligns with a private individual's case, the government lawyer generally does not represent the individual.

The **basic structure of the courts** is the same at the Louisiana and the federal level. There is a trial court, an intermediate appellate (appeals) court and a final appellate (supreme) court.

In Louisiana, trial courts include City Courts, Parish Courts, and Judicial District Courts. At the intermediate level, there are 5 Courts of Appeal. And finally, there is one Louisiana Supreme Court.

In Louisiana, it is usually the 19th Judicial District Court (JDC) located in East Baton Rouge Parish that reviews permitting decisions made by Louisiana's state government agencies (for

example, LDEQ). If the 19th JDC commits a legal or factual error, a party may appeal that decision to the Louisiana First Circuit Court of Appeal, which also is located in Baton Rouge. Lastly, if you are unsuccessful in the appeals court, you may seek relief from the Louisiana Supreme Court.

At the federal level, the trial courts include U.S. District Courts located throughout the United States. There are three located in Louisiana – the Eastern District Court in Louisiana, the Middle District Court in Louisiana, and the Western District Court in Louisiana. At the intermediate level are 13 U.S. Courts of Appeals each referred to as circuits. An appeal of a trial court decision would go to the U.S. Court of Appeals for the Fifth Circuit, which is located in New Orleans. Under limited circumstances, you may seek relief from the U.S. Supreme Court if you are unsuccessful in the U.S. Fifth Circuit. However, the U.S. Supreme Court rarely accepts cases for review.

Different Types of Legal Action

There are many different types of legal action. Your attorney typically develops the litigation strategy and makes decisions based on the situation and the governing laws. As the client, however, you alone have the power to set the goals of the litigation and to decide whether or not to settle. Your attorney will usually advise you through the process.

The following is a description of some common environmental advocacy situations and examples of legal action available.

1. Challenging a final permit decision

Companies are usually required to get a permit from the appropriate environmental agency to build a new facility, expand an existing plant, dredge a wetland, or do anything else that will affect the environment. Refer to Chapter 1 to learn about getting notice. Refer to chapter 4 to learn about submitting a public comment.

After the comment period ends, the agency will review the comments and take them into consideration when deciding to grant, modify or deny the permit. The next step is to wait until the agency takes action. By law, LDEQ must notify any person or organization submitting comments, but the U.S. Army Corps of Engineers does not have the same requirement. Instead, as a member of the public, you may have to call the agency or check its website.

Different Types of Legal Action:

1. Challenging a final permit decision
2. Challenging a final rulemaking decision
3. Citizen Suits (also known as Citizen Enforcement)
4. Private lawsuits

If the agency grants the permit, the next step is to review the decision and evaluate whether it is satisfactory. The agency may have modified the permit to accommodate concerns raised in the public comments. For example, it may have lowered the emissions limits and increased the monitoring and reporting requirements, in which case you may be satisfied. Or it may have ignored your comments and granted the permit as it was, in which case you would not be satisfied. If you are not satisfied, then you should call an attorney, if you have not already.

Usually the filing period to challenge the agency's decision to grant a permit is much shorter than the original comment period and requires fast action by an attorney. Often it is as short as 30 days. Once in the attorney's hands, the next steps include choosing a court in which to file the suit and preparing the legal challenge. For the LDEQ, the suit has to be filed in the 19th JDC in East Baton Rouge Parish. If a federal agency granted the permit, the attorney will file in a federal district court instead. The challenge will keep moving through the courts until a decision is rendered. If you are not satisfied and legal merit exists, you and your attorney may decide to appeal to the next court.

In short, the court has two choices: either to approve the agency's decision to grant the permit or to overturn it, for example, to vacate and remand it to the agency. Sometimes, the court will remand the permit with instructions to the agency for further review or occasionally provide specific modifications necessary to make the permit comply with the law. At this stage, the agency again will give public notice that it is reviewing a permit application and invite the public to submit comments on the proposed permit.

"As a client, when you request litigation assistance, you are still in charge of the environmental campaign. Litigation can be a powerful tool. If you file a lawsuit, the polluter will pay attention. But you and your group may also get pressured to stop, and you should be prepared."

**Mary Lee Orr,
Louisiana Environmental
Action Network**

2. Challenging a final rulemaking decision

After Congress or the state legislature passes a statute, sometimes an administrative agency is required to create regulations allowing the agency to implement the new law. Like a permit, rules are subject to public notice, review and comment, which may include public hearings as well. After you have submitted comments on the proposed rule, you may then challenge the final rule in state or federal court if the agency's final decision fails to comply with the law. Whether your case goes to state or federal court depends on whether a state or federal

agency issued the rule and whether the rule violates a state or federal law. The process of challenging a rule differs based on the agency involved.

After the agency reviews the comments and decides what to do with them, the final rule will appear in the federal or state register. At this point, if you are unhappy with the action taken, you should consider calling an attorney as soon as possible, if you have not already. Deadlines for challenging a final rule are very strict. From there, the attorney will have to check the requirements of the statute for challenging new rules. From this point on, the rest of the challenge will occur in the courts.

In short, the court has the option of affirming the rule or setting it aside, in whole or in part. The court can set the rule aside for reasons such as a finding that the agency did not have legal *authority to issue regulations or that the agency misinterpreted the statute* or failed to gather factual support for its rule.

3. Citizen Suits (also known as Citizen Enforcement)

Examples	Description	Issues	Remedies
16 U.S.C. § 1540(g) (Endangered species) 33 U.S.C. § 1365 (Clean water) 42 U.S.C. § 300j-8 (Safe drinking water) 42 U.S.C. § 6972 (Hazardous & solid waste) 42 U.S.C. § 7604 (Clean air) 42 U.S.C. § 11046 (Community right to know)	<ul style="list-style-type: none"> Private plaintiff sues (as "private attorney general") to abate violation of public law or Plaintiff sues to abate potential, substantial risks to public health or welfare or Plaintiff sues government agency for failing to perform a duty that is not discretionary under the law—for example, to make a determination or issue regulations by a deadline. <p><u>Purpose:</u> To 1) supplement government enforcement, 2) abate pollution, 3) encourage voluntary compliance, & (4) prod government into action.</p> <p><u>Note:</u> Congress intended to encourage legitimate citizen enforcement suits.</p>	1. The plaintiff must prove "standing to sue" by showing an actual or threatened injury (which may be an aesthetic injury) & must provide advance notice of the violations to the defendant & the government. 2. Proof of violations: Reports that permit holders submit to the government (for example, "discharge monitoring reports" (DMRs) under the Clean Water Act) are sworn statements that may prove violations. You can see a sample DMR in Chapter 10. The law sometimes requires proof of continuing or intermittent violations. 3. Effective citizen enforcement provisions are practical when the law provides for the following: <ol style="list-style-type: none"> Clear & enforceable legal requirements, for example, in permits; Requirements that permit holders monitor & report emissions data (including violations) to the government; Public access to government data, including monitoring data & permits (for example, through an open records law); Awards of litigation costs (including attorney fees) to citizen enforcers to make it practical for ordinary people to find lawyers. 	1. Injunction, 2. Civil penalty paid to the government. The penalty should eliminate any economic benefit to the violator from the violation. 3. Under some laws & in some settlements, the remedy may include a Supplemental Environmental Project in lieu of some or all civil penalties. For example, a "SEP" may include a project to mitigate environmental damage. SEPs should not include payments to the plaintiff. 4. Potential for a Consent Decree (via settlement) establishing compliance milestones & a schedule of stipulated penalties.

[Table continued on next page]

Examples	Description	Issues	Remedies
	<u>Note:</u> U.S. law also uses citizen suits to encourage enforcement of civil rights laws, <i>see</i> 42 U.S.C. §§ 1983, 1988.	4. Relationship to government action: a. Diligent government prosecution may block citizen enforcement. b. Most citizen enforcement provisions waive sovereign immunity for citizen enforcement against U.S. Government polluters.	

Table 6.1: Citizen Enforcement Lawsuits

When a polluter violates some federal or state environmental laws, citizens can bring suit to request a court order requiring compliance and assessing a penalty. If you think a facility is violating the law, the most important action you can take is to report the environmental problem to the appropriate agency. Then, if the agency does not respond to your satisfaction, you may—with the help of a lawyer—be able to use a “citizen suit” provision to force the company to comply. Citizen-suit penalties are paid to the government; citizen-suit provisions do not provide for damages or payments to the citizen enforcer other than reimbursement for attorney fees and expert witness costs.

In an ideal world, the responsible government agency will respond to your complaint by following up with an investigation into the problem. If they send inspectors out and find a violation, it is the agency’s duty to enforce the law. If the agency is unable or unwilling to do so, then you can enforce the law under certain environmental statutes, such as the Clean Water Act (CWA) or the Clean Air Act (CAA).

The next step is to consider calling an attorney if you have not already. From there, the attorney can begin the process of suing to enforce the law if sufficient evidence of a violation exists. Under some laws, the first step is a “Notice of Intent to Sue.” This filing notifies the violator that it is in violation and gives it an opportunity to rectify the problem without penalty. The letter also notifies the government of the problem and sometimes leads an agency to take an enforcement action and in doing so, makes a lawsuit unnecessary. Although the lawsuit is thwarted, you or your organization might get a seat at the table and have input in the agency’s enforcement action. If neither the agency nor the violator resolves the problem within the time provided by the Notice of Intent to Sue, then the attorney can file suit on your behalf in the appropriate court.

Relief in a citizen enforcement suit can take the form of an injunction, civil fines paid to the treasury, and/or recovery of costs and attorney fees. However, the more likely outcome is a negotiated settlement, by the parties, though sometimes with guidance and/or pressure from the court. In that situation, you as the plaintiff would probably not get all the relief sought. You may, however, have the flexibility to craft specific remedies that are more satisfying to you or your organization than those the court may have imposed.

4. Private Lawsuits

Example	Description	Issues	Remedies
Tort or contract suit	Lawsuits about injuries to private plaintiffs' legally protected interests; Potential for class actions in some cases. <u>Purpose:</u> To resolve private disputes between parties	<ul style="list-style-type: none">• What proof of injury & causation is available?• How should the court calculate damages?• What was the polluter's legal duty to the plaintiff?• Do injured parties have a practical ability to sue, including enough money to pay lawyers or enough at stake for a "contingent fee"?	<ul style="list-style-type: none">• Damages and/or restitution,• Injunctions: a) prohibitory (to forbid action), b) mandatory (to require action), or c) preliminary (lasting only until the trial).

Table 6.2: Private Lawsuits

A "toxic tort" is a type of tort that is common in environmental law. It occurs when a person or company engages in an activity that endangers the environment or human health, and another person suffers injury as a result. A toxic tort lawsuit seeks to compensate the personal injury resulting from the dangerous activity. *A Civil Action* and *Erin Brockovich* are movies about toxic tort.

Citizen enforcement and toxic tort suits both begin with detailed documentation of the environmental and/or health problems. Refer to Chapter 3 to learn more about how to document a problem.

A toxic tort suit differs from a citizen suit, however, because of the remedy. In a toxic tort suit, the plaintiff sues for damages. In a citizen enforcement suit, the plaintiff sues to force a polluter to comply with state and/or federal environmental laws. In a toxic tort suit, the court can award damages to cover medical expenses, pain and suffering, and sometimes "punitive damages," which is a monetary award designed to punish the guilty party. The injured person usually shares evidence with their attorney about the injury and the polluter's violation (if possible). The attorney will evaluate the evidence and analyze the law to decide whether or not to pursue a toxic tort suit on behalf of the client against the polluter.

Litigation

MY NOTES

PART III

Building Public Participation

This Chapter provides a general overview of organizing people to take collective action. It discusses:

- *Power Mapping*
- *One-on-one Mobilizing*
- *Planning a Community Meeting*
- *Facilitating a Community Meeting*
- *Incorporating a non-profit organization*
- *Applying for Tax exempt 501(c)(3) status*
- *Coalitions, Networks, and Movements*

Chapter 7

ORGANIZING

Below are approaches for organizing people to take collective action. When selecting or implementing these approaches, you may want to adjust your approach on factors such as the social and cultural norms in your local area, demographics of your community, your geographic location, the local political climate, or existing community assets and institutions. These are all factors that may require you to adjust your approach when engaging with people one-on-one or planning a community meeting. For instance, if most people in your community have limited English proficiency, then you may want to translate English material in advance of a community meeting.

Power Mapping

Power mapping, also known as influence mapping or power analysis, is a brainstorming exercise that can help you identify the individual(s) or institution(s) that you need to influence, directly or indirectly, to achieve your goal.

Power mapping can also help you identify potential allies and opponents. Potential allies are people who share some or all of your concerns, or who may come to share your concerns. For instance, if you are concerned about a proposed refinery in your area, then your neighbors may be your potential allies. Some potential allies may not be obvious. For example, workers at a facility may have an interest in reduced occupational hazards that may correlate with reduced pollution in your community. Potential opponents are people that have an interest in the opposite outcome.

Your message may affect your potential allies and opponents—and you may wish to adjust your message for this reason. If your goal is to shut down a facility, workers and their family and friends may become your opponents. But if your goal is to reform facility operations, these same people may be allies.

Generally it is advisable to revisit your power map in light of new information, changing circumstances, new ideas, etc. For instance, new information could shift a potential opponent into an ally.

Below is an example of a simple power map:

Primary Allies	Primary Opponents	Decision-makers
<ul style="list-style-type: none"> • Other fishermen (commercial and recreational) • Other coastal communities and families that bring seafood home to feed themselves • People who have faced similar challenges, for example, Native American fishermen in Alaska • My neighbors that receive seafood from me • Our church Pastor • My children • My parents 	<ul style="list-style-type: none"> • The company(s) responsible for the problem • Company officials and representatives 	<ul style="list-style-type: none"> • The President • U.S. Senators and representatives • State politicians • The courts • Special masters or administrators of settlement funds

7.1 Sample Power Map fictional power map to initiate an environmental campaign for recognition of lost subsistence use of seafood due to an oil spill

Sample Map 7.1 is a simple power mapping exercise that you can replicate for the issue that concerns you. In the first column, list every person, or category of people, that might support you. In the second column, list every individual or organization(s) that are opposed to your goal. And in the last column, list the people that have decision-making power to grant or deny your demand. You can brainstorm and do this exercise alone or with other people.

Developing a power map can be a useful brainstorming tool. Start by identifying the decision maker. Then identify and list all the individuals and organizations that directly influence the decision maker. This second step may require some research, such as identifying major donors or investors of a corporation. Finally, on the outer most level, list all the individual(s) and organization(s) that indirectly influence the decision maker. Effective advocacy can include building personal relationships with these people.

After filling in the diagram, identify individuals or organizations that are your potential allies. These allies may be your audience to indirectly influence the decision maker.

One-On-One Mobilizing

One-on-one mobilizing is the process of activating people to get involved. To start engaging people, you may want to (1) share information and (2) share opportunities for getting involved. For example, you could make phone calls, walk door to door, or set up information booths in public spaces or at your community or church event.

Sharing information and answering questions is a valuable service. You can start by preparing a general statement about the environmental issue that concerns you. Then anticipate some of the questions and concerns people may have and prepare your answers in advance. Printed material may also be helpful, especially for people that prefer to read information. When you are ready to share information, start with a basic explanation. Your listeners may be learning about the issue for the first time.

Another valuable service is to share opportunities for people to get involved. Part of mobilizing individuals for collective action is to help people find a meaningful role in the group. Offer a range of opportunities and ask your listener how they might be able to commit. The amount of time commitment may vary. Here are some examples of opportunities you might want to offer:

- ☐ ***Start a conversation.*** Ask the listener to take a flyer and share the information with someone else, or share the information on social media (Facebook, Twitter, Instagram, etc.).
- ☐ ***Sign a petition.*** As the organizer, be prepared to answer questions about how people's contact information will and will not be used.
- ☐ ***Vote in an upcoming election.*** Ask the listener to commit to voting in an upcoming election for a candidate that supports their position.
- ☐ ***Attend a public hearing.*** It is almost always better to have more people attend a public hearing, especially if those people support your position.
- ☐ ***Attend a community meeting.*** Community meetings are a good way to meet other people with similar concerns, learn more about an issue, or brainstorm solutions together.
- ☐ ***Attend a Public Action.*** A public action is when a large group of supporters gather in a public place that is highly visible to voice a concern and/or demand action. Often, these activities include public speakers, chants and signs. They are more effective with large numbers of people.
- ☐ ***Write a letter or make a phone call to a decision maker.*** The purpose of a letter writing or phone-in campaign is to flood the office of a public official with calls of public support for your issue. A strong showing of support from the public increases

the chance of securing the official's support for your issue. Phone-in campaigns work best when directed at a specific official. It should prod the official to respond to your requests. When organizing your phone-in campaign, give the callers specific instructions. The script may include the following:

- ✓ Ask to speak with the decision or the staff person who handles that particular issue or other issues similar to yours.
- ✓ Identify yourself to staff person.
- ✓ State your request. For example, "Please tell Representative/Councilman...that I support/oppose..."

Planning a Community Meeting

Here is a checklist of things you may want to consider when planning a gathering:

- ☐ Reserve a space where people can feel comfortable – in a public library, community center, coffee shop, etc.
- ☐ Set a Time and Date
- ☐ Draft an Agenda – set a time frame for each agenda item
- ☐ Assign a Facilitator
- ☐ Announce the meeting – for example, using scripted phone calls or canvassing, a flyer, an email, etc.
- ☐ Gather writing tools for taking notes (for accountability purposes, take notes on a flip chart or board so that attendees can see the notes)
- ☐ Consider accommodation for children
- ☐ Create a sign-in sheet

"Community organizing is building people power. You can't be too young or too old to start. I started organizing when I was 12 years old. I was demanding environmental justice alongside organizers in their 70s."

**Cassandra Tran,
Former Youth
Organizer,
VAYLA-NO**

What are some things specific to your community or area that you may want to consider when planning a gathering? (For example, literacy, work schedules, religious holiday schedule, or language access)

Facilitating a Community Meeting

Here are some tips for effective facilitating.

At the beginning of the meeting:

- ☐ Give people an opportunity to introduce themselves or provide an ice breaker to learn each other's names (for icebreaker ideas, check out *Moving Beyond Icebreakers* by Stanley Pollack and Mary Fusoni)
- ☐ Agree to rules of conduct, for example
 - ✓ One person speaks at a time
 - ✓ Step up, step back (i.e. if you are not contributing to the discussion, then challenge yourself to step up and speak up. And if you are speaking up a lot, then step back and give other people an opportunity to speak.)
- ☐ If the group plans to make a decision during the meeting, agree to a decision making process at the beginning of the meeting (for example, consensus building process, a voting majority, a leader, etc.)

During the meeting:

- ☐ Call people by their name.
- ☐ Keep the energy of the group focused on the task.
- ☐ Support *all* attendees' right to express opinions.
- ☐ Make sure everyone has the opportunity to participate.
- ☐ Periodically summarize the group consensus on issues to validate and clarify the progress of the discussion.
- ☐ Do not evaluate ideas.
- ☐ Allow attendees time to think and process.
- ☐ Take notes during brainstorming sessions (this will help ensure that every contribution is given equal weight because your memory may be biased)

Towards the end of the meeting:

- ☐ Celebrate successes of the group.
- ☐ Summarize any group consensus.
- ☐ Bookmark any open ended discussions or topics unaddressed.
- ☐ End the meeting on time.

What are some things specific to your community that would make for an effective facilitator?

Incorporating a Non-Profit Organization

Your group may decide to be incorporated. Incorporating an organization gives it a legal status as a corporation. As a recognized organization with members, it may be easier to rally local support, gain media attention, establish goals, speak with a unified voice and implement a plan of action.

To incorporate your organization in Louisiana, you must draft Articles of Incorporation for your organization. Articles of Incorporation outline your group's purpose and structure. You do not need an attorney to draft your Articles of Incorporation. An attorney, however, can give you legal advice on the terms of the Articles.

After you draft the Articles, you can file them with the State of Louisiana through the Secretary of State's office. The office of the Secretary of State should be able to answer your questions about the filing process, including any necessary forms and fees. The Louisiana Secretary of State website is

<http://www.sos.la.gov/>

You must also obtain an Employer Identification Number (EIN) from the IRS. You must have an EIN even if the organization does not have any employees or income. File "Form SS-4, Application for Employer Identification Number" online or by mail with the IRS. For more information, go to the following IRS website (note: the address may have changed by the time you are reading this).

<https://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/How-to-Apply-for-an-EIN>

Applying for Tax Exempt 501(c)(3) Status

An organization can apply for 501(c)(3) status through the Internal Revenue Service. An organization with 501(c)(3) status is exempt from paying taxes. To apply for 501(c)(3) status, you must file Form 1023 with the IRS. To learn more, visit their website (note: by the time you read this, the website may have changed).

www.irs.gov/charities/charitable/index.html

Form 1023 comes with an instruction booklet to help you fill out and file the necessary forms to apply for your tax-exempt status. You do not need an attorney to file Form 1023. An attorney, however, can provide legal advice on the IRS criteria for 501(c)(3) status and draft the required and supplemental documents, such as the By-laws. By-laws dictate exactly how your organization will legally operate - including a list of Board of Directors, meeting information, duties of members and other information setting forth the rules for your group.

Coalitions, Networks, and Movements

Coalitions, networks, and movements are different ways your group could engage with other entities to build public participation for collective action. A coalition is when a group enters a partnership with another group to achieve a common goal. Typically partners in a coalition are expected to share resources, spread risk, and share rewards. This may include sharing press coverage, funding sources, spreading out the risk or cost of litigation, and sharing in awards and accolades.

Members of a network are more loosely affiliated than partners in a coalition. A network typically has a centralized anchor or hub that coordinates network resources – offer information, trainings, or networking opportunities. Membership may or may not cost money.

Movements are driven by an idea and/or principle. Typically, there is no central coordinator and no shared resources. Groups that affiliate themselves with a movement generally do so by declaring a common idea or principle.

Organizing

MY NOTES

This Chapter will provide you with some general information about:

- *Framing the Problem*
- *Media Tips*

Chapter 8

COMMUNICATIONS & MEDIA

Communications is about creating a persuasive message for your target audience. Media is about the medium you use to deliver your message. For instance, your media strategy may include a press conference or a Facebook announcement.

This chapter is a general overview about some of the elements of communications and tips regarding the media.

Framing the Problem

Framing the problem is discussing the problem in an easily understood and persuasive way. A communications frame can be a phrase, an image, a metaphor, or a story. For instance, “cancer alley” is a phrase that describes an area in Louisiana with a concentration of industrial pollution and a concentration of human health problems in communities along the fenceline.

Think strategically when you select a frame for the problem. For example, let’s say you oppose building a new coal export terminal in your neighborhood. Proponents of the terminal might choose to frame the debate as “jobs versus environmentalists”. “Jobs” can be an effective frame because it invokes positive values such as economic growth and productivity. As an opponent of the proposed plant, you might choose to frame the issue as one of “community preservation” – also invoking positive values.

To determine whether or not your frame is effective, you should consider how your target audience responds. Watching members of target audience react to certain frames can help you develop, modify or choose an effective frame. To explore this topic further, check out the FrameWorks Institute website:

www.frameworksinstitute.org

Media Activities & Tips

Here are some media planning tips:

- ❑ **Create and prioritize media database (journalists and reporters)** — To create your own media database, pay attention to the names of journalists attached to various stories. Who is covering what? Who favors what type of story? Who is on what beat? When watching TV or listening to the radio, write down the name of the producer or correspondent. Get to know who works where in the newsroom. Call and ask who covers what beat at your local media outlet. Include the following information in your database (a database in this context may be nothing more than a list on a few sheets of paper):
 - ✓ Name
 - ✓ Phone numbers
 - ✓ Mailing address
 - ✓ Email addresses
 - ✓ Fax number
- ❑ The **Louisiana Press Association** publishes a “Directory of Louisiana Newspapers” every year with updated contact information for most news, radio and broadcast media. It is available for \$45. Go to the following website to order a copy.
 - ✓ <http://www.lapress.com/site/directory.html/>
- ❑ **Track coverage** – track the media’s interest in your stories. This can help you evaluate the effectiveness of your media tactics and inform your media plan moving forward. If you are getting a lot of coverage, it can also show funders the relevance of your issues.
- ❑ **The Messenger** – Consider choosing someone from your group to serve as the spokesperson for the group. This is the person or the organization entity that signs your public statements and delivers your message to the media.
- ❑ **The Message** – Focus your message to the media on a one or a few clear points—ideally no more than three points. People—including reporters—have limited spans of attention and find it difficult to follow complex information. Because you have lived with the information at issue, a long, relatively complex statement may seem clear to you. To get your message across to someone new, however, it is usually best to step back and strip your message down to essentials.
- ❑ **More about the Message** – Focus on points that you verify. For example, allegations about peoples’ motives (“they only care about money” or “someone must have been bought off”) are usually impossible to prove. Reporters are more likely to be interested in sincere expressions of concern about effects on your community.

Here are some media activities (and tips) you may want to include in your media plan:

- ❑ **Provide handouts**—press kit, report, scorecard, fact sheet, polls, studies, etc. Journalists may not know about the unique issues facing your community. Providing information also helps establish you and your organization as a veritable resource for a journalist or reporter.
- ❑ **Media advisories/press releases** - Some tips for writing press releases:
 - ✓ Put your news announcement in the title.
 - ✓ Keep it to one page, if possible.
 - ✓ Include contact information for your organization.
 - ✓ Address releases to specific people who cover your subject area.
 - ✓ Follow up with a call to make sure the advisory or release was received. This increases the chance that someone will actually read it and cover your event.
- ❑ **Media briefings**—Personal meetings with reporters about new developments.
- ❑ **Press conferences** – open invitation to the press to meet spokesperson(s). It can last up to 30 minutes and feature 1 or more spokesperson(s). It typically starts with a brief statement by the spokesperson(s) and opens to for questions and answers. Press conferences allow the organizer to control a lot of the messaging – start and end time, place, and who speaks.
- ❑ **Public media events** – announcement to the press about a public action, rally, town hall, etc. These events feature photo opportunities and can draw a lot of press attention. Public media events, however, are more difficult to control and are time-consuming to plan and implement.
- ❑ In planning your event, the *best days* to hold your media events are **weekdays, Tuesday through Thursday**. Newsrooms typically operate on short staff during the weekend and Mondays are tough because you won't be able to reach key reporters during the weekend to remind them of your event. Fridays aren't good, either, because your news will come out in Saturday's paper, which is the least-read issue.
- ❑ Be aware of the *time of day* when you stage your events. Weekdays between **10 a.m. and 2 p.m.** are generally the best. Try a lunchtime event if you want to encourage the public to attend. Your event may, of course, demand other times.
- ❑ **Write and place opinion or editorial pieces (called op-eds) or letters to the editor** – submit a statement to online or print media. Letters to the editor are a good way to get attention if you can get them published. Make sure you follow the newspaper guidelines for writing a letter to the editor. The paper usually has a word limit and requires your name and sometimes your address.

Communications & Media

MY NOTES

Part IV
What's the Law?

*This Chapter will provide tips on
basic legal research for:*

- *Federal Statutes and Regulations*
- *Louisiana Environmental Statutes and Regulations*
- *Case Law*
- *Local Ordinances*

Chapter 9

HOW TO FIND THE LAW

Internet search engines have made finding the law much easier. For example, if you type “33 USC 1365” into Google or Yahoo, you are likely to come up with several accurate versions of the Clean Water Act’s citizen suit provision. If you type in “clean water act citizen suit provision” you are likely to get to the same place.

On the Tulane Environmental Law Clinic’s web page, we maintain links to various laws and rules, including Louisiana statutes and regulations (the administrative code) and federal statutes and regulations. Sometimes these links change, but we try to keep them up to date here:

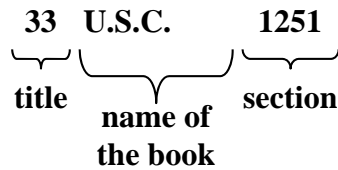
<http://www.tulane.edu/~telc/resources.html>

When trying to find a hard copy version of a law, the trickiest part is not finding the book but knowing how to find what you want in the book. You will find books that contain most environmental laws and regulations of interest to you in most local law libraries. The level of government will determine what law to look for and what library to visit.

Federal Statutes and Regulations

Each level of government produces hundreds of laws that are published in specialized books. Federal statutes are published in the U.S. Code (U.S.C.) and the U.S. Code Annotated (U.S.C.A.). The same version of the law is printed in each, but the U.S.C.A. also includes references to court cases and notes.

A “citation” is like the statute’s address. It is composed of three parts: the title number, an abbreviation for the name of the book and the section number. For example, suppose you wanted to look up the Clean Water Act and you already have the citation 33 U.S.C. § 1251. On the next page, this citation format is broken down:



The first number tells you the statute is in Title 33, and the next piece identifies it as part of the U.S. Code. In the library, first you would find the section that houses the U.S. Code and then look for Title 33. Sometimes, even the title is too big to publish all together so there might be multiple books called Title 33. Once you have found the right title or set of titles, flip to Section 1251.

One thing to know about these books is they are subject to change every time Congress or the state legislature is in session. Rather than reprint the entire book every time the statute changes, the publisher compiles the edits into a smaller pamphlet and stores it in a pocket on the inside binding at the back of the book—called the “pocket part.” In the annotated versions of the books, changes also will include newly decided cases and statutes passed after the original publication.

With respect to federal regulations, the *Federal Register* is the official daily publication for Rules, Proposed Rules and Notices of federal agencies and organizations, as well as Executive Orders and other presidential documents.

The **Code of Federal Regulations (C.F.R.)** is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government. The C.F.R. is divided into 50 titles, which represent broad areas subject to federal regulation. Each title is divided into chapters, which are subdivided further into parts covering specific regulatory areas. Large parts may be subdivided into subparts. All parts are organized in sections, and most citations to the C.F.R. will be provided at the section level.

Louisiana Environmental Statutes and Regulations

At the state level, the *Louisiana Register* is the monthly publication that provides access to the certified regulations and legal notices issued by the executive branch of the state government. Proposed and final rules published in the Louisiana Register are codified in the Louisiana Administrative Code (LAC).

The LAC is divided into titles, which are like volumes for an encyclopedia. Then, the statute is broken into smaller pieces called subtitles, chapters, sections, parts and/or subparts, depending on the length and organization of the regulation. For all of them, though, the basic citation is the same.

Case Law

Cases that interpret the statutes also are published regularly in books and online. Case law can be persuasive and sometimes considered the authority and binding to other courts. Like statutes, cases have citations identifying them. Each citation has a case title, a volume number, an abbreviation for the name of the book and the page number. The books containing cases usually are found in the same area of the library as the statutes.

Save Ourselves, Inc. v. LECC, 452 So.2d 1152, 1160 (La. 1984).

title of the case

**name of
book**

**page
being
cited**

**court &
year
decided**

Cases from each level of government, and sometimes each court, are officially published in a specific book. However, other books besides the official reporter publish the cases. For example, since 1875 the U.S. Supreme Court has officially published its cases in the *U.S. Reports*, abbreviated "U.S." However, U.S. Supreme Court cases also appear in a reporter called the *Supreme Court Reporter*, abbreviated "S. Ct." Additionally, the Supreme Court's cases can be found in two other reporters: the *Lawyer's Edition* and *U.S. Law Week*.

Supreme Court Cases

U.S.—*United States Reports*

S.Ct.—*Supreme Court Reporter*

L.Ed.—*Lawyer's Edition*

United States Law Week

Federal Appellate Court cases

F.—*Federal Reporter*

F.2d—*Federal Reporter Second*

F.3d—*Federal Reporter Third*

Federal District Court cases

F.Supp.—*Federal Supplement*

F.Supp. 2d—*Federal
Supplement Second*

Louisiana Supreme Court and Courts of Appeal cases

So.—*Southern Reporter*

So.2d.—*Southern Reporter
Second*

The federal appellate courts have published in one of three Federal Reporters since 1893: F., F.2d, and F.3d, short for the *Federal Reporter*, *Federal Reporter Second* and *Federal Reporter Third*. Since 1932, the federal district courts have published cases in either the *Federal Supplement* or the *Federal Supplement Second*, abbreviated as F. Supp. or F. Supp. 2d.

At the state level, there is usually one reporter that officially publishes all the cases for the highest and the intermediate appellate courts. Additionally, one reporter will usually publish cases for both of these levels of courts for several states. For most states, the district courts' decisions are not published. In Louisiana, the official reporter for the Louisiana Supreme Court and the Courts of Appeal is the *Southern Reporter* or the *Southern Reporter Second*, abbreviated as So. or So. 2d. This book also includes decisions from Florida and Mississippi.

Local Ordinances

Local ordinances control some environmental activities in the areas where they have been adopted. In particular, local ordinances may regulate zoning, nuisances and flood plains. Ordinances are a source of law, but are not as easy to find as state and federal statutes and regulations. If you cannot find ordinances at your local library, contact your parish or city clerk and ask. Local ordinances can be adopted by either your parish or city governments. To make sure you have all the applicable ordinances, check with both the parish and city clerks. A good online resource for locating ordinances is <http://www.municode.com/>

How to Find the Law

MY NOTES

This Chapter provides a brief description of commonly referenced environmental laws, including:

- *Federal Laws, and*
- *Louisiana Laws*

Chapter 10

COMMONLY REFERENCED ENVIRONMENTAL LAWS

When thinking about your environmental issue, it is possible that a single environmental problem may involve more than one environmental law. Sometimes, however, several environmental issues can fall under the same law.

Federal and state agencies publish regulations to supplement these major environmental laws with more detail about the legal requirements. In addition to the major environmental laws and agency regulations, court cases also affect the way the environmental laws can be used.

Below are summaries of some commonly referenced environmental laws:

Federal Laws

National Environmental Policy Act of 1969 (NEPA) 42 U.S.C. §§ 4321 - 4347

The National Environmental Policy Act (NEPA) is most famous for requiring the “Environmental Impact Statement” (EIS) and “Environmental Assessment” (EA). These are documents that analyze environmental impacts and alternatives to proposed federal decisions. The idea behind NEPA is that Congress wanted federal agencies to look before leaping into making a major decision that would affect the environment, such as issuing a permit or funding a project. Many—but not all—types of federal permits, however, are exempt from NEPA. Thus, there is no federal requirement for an environmental impact statement or assessment when EPA issues a Clean Air Act, Clean Water Act, or hazardous waste permit. On the other hand, the U.S. Army Corps of Engineers must comply with NEPA before issuing permits to destroy wetlands. And the U.S. Department of Transportation must comply with NEPA when authorizing or funding highway projects.

If an agency is unsure whether a decision is significant enough require an Environmental Impact Statement, it may conduct an “Environmental Assessment” or “EA.” Based on that assessment, the agency may issue a “Finding of No Significant Impact” (also known as a FONSI). A FONSI notifies the public of the agency’s opinion that the decision is not important enough to require a full-scale impact statement. After conducting an EIS, agencies issue “Records of Decision,” or “RODs,” to document their decisions.

NEPA compliance (that is, the assessment of environmental impacts and alternatives) is a public process, and agencies must provide members of the public with notice and an opportunity to comment at key stages. But NEPA does not prevent the agency from making bad decisions. It only requires that the decisions be well-informed. Most NEPA lawsuits, therefore, focus on the quality of the agency’s evaluation of impacts and alternatives, and raise questions such as these:

- Did the agency issue a Finding of No Significant Impact for a decision that will have a major environmental effect, and thus require an Environmental Impact Statement?
- Did the Environmental Impact Statement ignore significant impacts or skip over reasonable alternatives?
- Did the agency fail to supplement an Environmental Impact Statement when important new information came to light?

When citizens defeat an agency in a NEPA lawsuit, the result does not automatically “kill” the project. Instead, the court will generally forbid the project from going forward until the agency conducts whatever analysis of impacts and alternatives is required to achieve NEPA compliance. The resulting new information may inspire the agency to change its mind or the agency may reaffirm its earlier decision.

NEPA applies only to federal agencies, not to states, private companies or elected officials. But a state or private company may still need an Environmental Impact Statement if it requires approval or funding from a federal agency. Also, many states—including Louisiana—have their own NEPA-like laws that require consideration of alternatives and analysis impacts.

Clean Air Act

42 U.S.C. §§ 7401-7671q

The Clean Air Act regulates air emissions from “stationary sources,” such as factories, and “mobile sources,” such as cars and trucks. Among other things, this law authorizes the EPA to set the following:

1. national health protection standards to limit concentrations of air pollution in public places,
2. performance standards requiring state-of-the-art controls on new sources of pollution, and

3. emission standards reducing hazardous air pollutants, such as carcinogens and toxicants, from both new and existing sources.

In Louisiana, the state's Department of Environmental Quality (LDEQ) is responsible for implementing these standards. To comply with the Clean Air Act, the state requires every major source of pollution to obtain an operating permit – which is known as a “Title V” or “Part 70” permit. Before the LDEQ issues Clean Air Act operating permits, it must conduct a public process. The state sends notice of the proposed permit to people who have requested it and publishes the notice on the LDEQ web site. Next, the LDEQ sets a period during which it will accept written comments on the proposed permit. The LDEQ also is required to provide the public with an opportunity for a public hearing regarding the permit.

Citizens who submit written comments or who speak at a public hearing may appeal an LDEQ permit in court and also may ask EPA to veto state permits. Appeals of Clean Air Act permits and petitions to the EPA for vetoes, however, are governed by strict deadlines.

Clean Water Act

33 U.S.C. §§ 1251-1387

The Clean Water Act establishes the basic structure for regulating discharges of pollutants into public waterways, and also contains provisions to protect wetlands—an especially important resource in Louisiana.

The Act makes it unlawful for any person to pollute public waters without a permit. LDEQ runs a permitting program to implement the Act. Before LDEQ issues a Clean Water Act permit (also known as a “Louisiana Pollutant Discharge Elimination System” or “LPDES” permit), it must conduct a public process. The state sends notice of the proposed permit to people who have requested it and publishes the notice on the LDEQ Web site. The notice sets a period, during which LDEQ will accept written comments on the proposed permit. Citizens who submit comments or who speak at a public hearing about a permit may appeal it in court.

The Clean Water Act makes it particularly easy to identify companies that are violating their permits. This is because dischargers must monitor their own discharges and submit the results in reports known as discharge monitoring reports, or “DMRs.” In Louisiana, you can look at these DMRs online, on LDEQ's Electronic Document Management System (EDMS) discussed in Chapter 2. An example of a DMR appears on the next page, with circles that show violations.

The U.S. Army Corps of Engineers runs the Clean Water Act permitting program to protect wetlands. The Act requires permits (often referred to as section 404 permits) for dredging or filling wetlands. Before the Army issues a section 404 permit, it asks the LDEQ to certify that the permit will not have unacceptable impacts on state waters. Both the Army's permitting process and the LDEQ water quality certification process are public processes, in which the public has a right to comment and file legal appeals.

PERMITTEE NAME/ADDRESS
(Include Facility Name/Location if different)

NAME Artesian Utility Company, Inc.
ADDRESS P.O. Box 1466
Covington, LA 70434

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
DISCHARGE MONITORING REPORT (DMR)

LA0105520
PERMIT NUMBER

001
DISCHARGE NUMBER

MINOR
AI# 31222

FACILITY Lake Ramsey Subdivision
LOCATION Lake Ramsey Rd. Covington, LA 70435

MONITORING PERIOD					
FROM	YEAR	MO	DAY	TO	YEAR
	14	05	01	14	05

***** NO DISCHARGE [] *****
NOTE: Read Instructions before completing this form.

PARAMETER (2-37)	MEASUREMENT REQUIREMENT	QUANTITY OR LOADING			QUALITY OR CONCENTRATION			NO. EX.	FREQUENCY OF ANALYSIS	SAMPLE TYPE
		(1-46-51) AVERAGE	(5-6-61) MAXIMUM	(7-8-41) UNITS	(1-46-51) AVERAGE	(1-46-51) MAXIMUM	(1-46-51) UNITS			
		(1-46-51) AVERAGE	(5-6-61) MAXIMUM	(7-8-41) UNITS	(1-46-51) AVERAGE	(1-46-51) MAXIMUM	(1-46-51) UNITS			
PH	SAMPLE MEASUREMENT	*****	*****	*****	7.1	7.6	S.U.	0	2MO	GRAB
00400 SOLIDS, TOTAL SUSPENDED (TSS)	PERMIT REQUIREMENT	*****	*****	*****	6.0 S.U.	8.5 S.U.	*****	2	2MO	GRAB
00530 AMMONIA-NITROGEN	SAMPLE MEASUREMENT	*****	*****	*****	25.5	37	MG/L	2	2MO	GRAB
00610 FLOW	PERMIT REQUIREMENT	*****	*****	*****	10.0 MO AVG	15.0 DAILY MAX	MG/L	2	2MO	GRAB
50050 CHLORINE, TOTAL RESIDUAL (TRC)	PERMIT REQUIREMENT	*****	*****	*****	0.00	0.00	MG/L	0	1/WEEK	GRAB
50060 FECAL COLIFORM COLONIES	PERMIT REQUIREMENT	*****	*****	*****	NO MEASURABLE MO AVG	NO MEASURABLE DAILY MAX	CFU/100	1	2MO	GRAB
74055 CBOD, 5-DAY	SAMPLE MEASUREMENT	*****	*****	*****	894	5,700	MG/L	2	2MO	GRAB
80082 NAME/TITLE PRINCIPAL EXECUTIVE OFFICER	PERMIT REQUIREMENT	*****	*****	*****	20.5	32	MG/L	2	2MO	GRAB

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 GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR PERSONS WHO MANAGE THIS 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.

Signature of Principal Executive Officer
OFFICER OR AUTHORIZED AGENT

TELEPHONE: 855-1627-2067
DATE: 14 6 11

COMMENTS AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here)
The sample dates were 05-14-14, and 05-28-14, for all parameters; additionally, 05-09-14, 05-22-14, for TRC. Heavy rains on 05-30-14, and 05-31-14. There are TSS, Ammonia-Nitrogen, Fecal Coliform Colonies, and CBOD, 5-day exceedances. See "Non-Compliance Report Form".
Computer Reproduction EPA Form 3320-1
PAGE 1 OF 1

Resource Conservation and Recovery Act (RCRA)

42 U.S.C. §§ 6901 - 6992

The Resource Conservation and Recovery Act gives the EPA authority to regulate hazardous waste from "cradle to grave." This includes the generation, transportation, treatment, storage and disposal of hazardous waste. RCRA also sets forth a framework for the LDEQ's regulation of the management of non-hazardous wastes, for example, in municipal landfills. RCRA also requires the EPA to issue regulations to prevent gasoline and other dangerous materials from leaking out of underground storage tanks.

Like most environmental laws, RCRA allows citizens to sue polluters about violations. RCRA also contains a unique provision that allows citizens to sue to force polluters who have contributed to situations in which wastes endanger the environment to take steps necessary to abate the danger.

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

42 U.S.C. §§ 9601 - 9675

The Comprehensive Environmental Response, Compensation, and Liability Act, also known as the Superfund Act, allows states and the EPA to force owners of polluted property, and generators and transporters of hazardous waste, to pay for clean-up of contaminated property and to pay damages for the public's lost use of natural resources. The law provides citizens with an opportunity to comment on government cleanup plans. The Superfund Act also created the Agency for Toxic Substances and Disease Registry ("ATSDR"), which creates "toxicological profiles" of hazardous substances and conducts risk assessments of contaminated areas.

Department of Transportation Act

49 U.S.C. § 303

Section 4(f) of the DOT Act provides that the Secretary of Transportation will not approve any program or project that requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance or land from an historic site of national, State, or local significance, unless there is no feasible and prudent alternative to the use of the land and program, or unless the project includes all possible planning to minimize harm resulting from the use.

Emergency Planning & Community Right-To-Know Act (EPCRA)

42 U.S.C. §§ 11011-11050

Also known as Title III of the Superfund Amendments and Reauthorizations Act ("SARA"), the Emergency Planning & Community Right-To-Know Act was enacted by Congress to help local communities protect public health, safety, and the environment from chemical hazards. It also created the Toxic Release Inventory, a report about the amount of toxic pollution released each year.

EPCRA requires each state to appoint a State Emergency Response Commission. These commissions divide their states into Emergency Planning Districts and name a Local Emergency Planning Committee for each district including representatives of fire fighters, health officials, government and others. The Committees track accumulations of dangerous materials to help avoid emergencies and respond quickly when emergencies occur.

In general, the information collected under EPCRA is available to the public and can help community members educate themselves about the risks posed by industries in their communities.

Endangered Species Act (ESA)

16 U.S.C. §§ 1531-1544

The Endangered Species Act provides for conservation of threatened and endangered plants and animals and the habitats in which they are found. The U.S. Fish and Wildlife Service (FWS) of the Department of the Interior maintains the list of endangered and threatened species. Species include birds, insects, fish, reptiles, mammals, crustaceans, flowers, grasses, and trees. Anyone can petition the FWS to include a species on this list. The law prohibits any action that results in the "taking" of a listed species, or harms its habitat. Likewise, the import, export, interstate and foreign commerce of listed species are prohibited.

Federal Food, Drug and Cosmetic Act

21 U.S.C. §§ 301-399

The Federal Food, Drug and Cosmetic Act deals with the provisions and requirements for food quality, labeling, and packaging. It also regulates additives, pesticide residue and other harmful substances that may be found in food. It establishes the same types of regulations for drug and cosmetic production and distribution. Additionally, it prohibits the marketing of new drugs that have not been approved by the appropriate governing agency.

Federal Insecticide, Fungicide and Rodenticide Act

7 U.S.C. §§ 135-136

The primary focus of the Federal Insecticide, Fungicide and Rodenticide Act is to provide federal control of pesticide distribution, sale and use. The EPA was given authority under FIFRA not only to study the consequences of pesticide usage but also to require users such as farmers and utility companies to register with the agency when purchasing pesticides.

Freedom of Information Act (FOIA)

5 U.S.C. § 552

As we discussed in Chapter 3, the Freedom of Information Act allows any individual to request information from federal agencies without being required to submit identification or

explain why the information is being requested. In passing FOIA, Congress reaffirmed that the workings of government are “for and by the people” and that the benefits of government information should be made available to everyone.

All federal agencies must adhere to the provisions of FOIA with certain restrictions for work in progress such as early drafts, confidential enforcement information, classified documents and national security information.

National Historic Preservation Act **16 U.S.C. § 470**

Congress passed the National Historic Preservation Act to require Federal agencies to act as responsible stewards of our Nation's resources when their actions affect historic properties. The Act gives U.S. citizens a voice when Federal actions, such as highways, will affect properties that qualify for the National Register of Historic Places, the Nation's official list of historic properties.

Occupational Safety and Health Act (OSHA) **29 U.S.C. §§ 651-677**

Congress passed the Occupational Safety and Health Act to ensure worker and workplace safety. Congress's goal was to make sure employers provide their workers a place of employment free from recognized hazards to safety and health, such as exposure to toxic chemicals, excessive noise levels, mechanical dangers, heat or cold stress, and unsanitary conditions. The Act's regulations include the Hazard Communication Standard, which informs workers about dangerous chemicals, for example, by providing Material Safety Data Sheets (“MSDSs”).

To establish standards for workplace health and safety, the Act also created the Occupational Safety and Health Administration (OSHA). OSHA is a division of the U.S. Department of Labor that oversees the administration of the Act and enforces standards in all 50 states. OSHA inspects workplaces and responds to worker complaints.

Oil Pollution Act (OPA) **33 U.S.C. §§ 2702 to 2761**

The Oil Pollution Act of 1990 allows the EPA, states and others to force companies that are responsible for oil spills to pay for cleanups. OPA also requires oil storage facilities and vessels to submit to the federal government plans detailing how they will respond to large discharges.

Safe Drinking Water Act **42 U.S.C. §§ 300f-300j-26**

The Safe Drinking Water Act was established to protect the quality of drinking water in the United States. This law focuses on all waters actually or potentially designed for drinking use, whether from above ground or underground sources.

Toxic Substances Control Act (TSCA) **15 U.S.C. §§ 2601-2692**

The Toxic Substances Control Act of 1976 was enacted by Congress to give the EPA the ability to track the recorded 75,000 industrial chemicals produced or imported into the United States. The EPA can require testing of chemicals that may pose an environmental or human-health hazard and has the authority to ban the manufacture and import of chemicals that pose an unreasonable risk.

Louisiana Laws

Louisiana Constitution Article IX, Section 1 and the Public Trust Doctrine

Article IX, Section 1 of Louisiana's Constitution provides that "the natural resources of the state, including air and water, and the healthful, scenic, historic and esthetic quality of the environment shall be protected, conserved and replenished insofar as possible and consistent with the health, safety and welfare of the people."

To implement the constitutional guarantee, the Louisiana Supreme Court explained that before granting approval for a proposed action affecting the environment, an agency—as public trustee—must determine whether the action serves the best interests of the environment and society. The Court's decision was in a case called *Save Ourselves, Inc. v. Louisiana Environmental Control Commission* (452 So. 2d 1152 (La. 1984)), also known as the "IT decision." The agency must: first, determine whether the project avoids or minimizes adverse environmental impacts; second, balance environmental costs and benefits with economic and social factors; and third, consider whether alternate projects, alternate sites or mitigating measures would better protect the environment.

The Louisiana Administrative Code

Louisiana publishes its regulations in the Louisiana Administrative Code (LAC). The Office of the State Register maintains an online listing of the LAC at the following web address (which is subject to change):

<http://www.doa.la.gov/Pages/osr/lac/books.aspx>.

Below is a brief description of major LAC titles related to environmental protection:

Title 33: Environmental Quality
LAC 33

The Louisiana Environmental Quality Act (LEQA), is found in the Louisiana Revised Statutes, beginning at La. Rev. Stat. § 30:2001, and is implemented by regulations published in Title 33 of the LAC. It covers a broad range of environmental law topics, including:

- Air (CAA)
- Hazardous Waste and Hazardous Materials
- Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation
- Solid Waste
- Water Quality (CWA)
- Underground Storage Tanks
- Radiation Protection

Additionally, the LEQA also contains a provision allowing citizens to bring lawsuits against any person who violates the Act. La. Rev. Stat. § 30:2026.

Title 43: Natural Resources
LAC 43

This title regulates the Department of Natural Resources and its Secretary. The areas covered by this title include:

- Management and Finance
- Mineral Resources
- Water Resources Management
- Office of Conservation-Natural Gas Policy Act
- Office of Conservation-Pipeline Division
- Office of Conservation-Pipeline Safety
- Office of Conservation-Surface Mining
- Office of Conservation-Injection and Mining
- Office of Conservation-General Operations
- State Lands Office
- Oil Spill Prevention and Response

Title 51: Public Health Sanitary Code
LAC 51

The Sanitary Code in Title 51 regulates all possible areas requiring proper sanitation including food and water supplies, sewage disposal, disease control and management of refuse disposal.

Title 70: Transportation

LAC 70

Although this title is called Transportation, it includes more than you might expect. In addition to regulating highway construction and outdoor advertising, this title also regulates soil and water conservation, flood control and water wells. The complete list, with regard to areas impacting the environment, includes:

- Highway Construction
- Utilities
- Outdoor Advertising
- System Management
- Offshore Terminal Authority
- Aviation and Public Transportation
- Real Estate (for relocation purposes)
- Compliance Programs
- Personnel
- Purchasing
- Tolls

Title 76: Wildlife and Fisheries

LAC 76

Title 76 regulates the areas of environmental law overseen by the Department of Wildlife and Fisheries. This title specifically regulates:

- State Game and Fish Preserves & Sanctuaries
- Wild Quadrupeds and Wild Birds
- Fish and Other Aquatic Life
- River Systems (Natural & Scenic)
- Boating
- Fill Material
- Amphibians and Reptiles
- Commercial Fisherman's Assistance Program
- Hunting & WMA Regulations

Commonly Referenced Environmental Laws

MY NOTES

LAGNIAPPE

List of Louisiana Environmental Agencies

List of Federal Environmental Agencies

List of Louisiana Libraries

LIST OF LOUISIANA ENVIRONMENTAL AGENCIES

Louisiana Department of Environmental Quality (LDEQ)

The LDEQ oversees the environmental affairs of Louisiana. The agency is divided into five offices; four of these offices are important for citizen involvement.

The *Office of Environmental Services* has many functions but focuses mainly on issuing permits and registering industries. This office also deals with all citizen complaints and issuing public notices. Some of the offices' main functions are:

- Permits
- Licenses
- Registrations
- Certificates
- Authorizations
- Pre-Permit Meetings
- Small Business Assistance
- Customer Assistance
- Outreach
- Complaints Hotline
- Community and Industry Relations

The *Office of Environmental Compliance* deals with the enforcement of environmental laws, investigation of complaints, on-site inspection and response to contamination. This office responds to emergencies concerning contamination (along with local emergency response officials). Some of the responsibilities of the office are:

- Surveillance
- Inspections
- Emergency Response
- Complaint Resolution
- Ambient Sample Collection
- Enforcement

The *Office of Environmental Assessment* is responsible for evaluation and monitoring of the environment in Louisiana. It also is responsible for writing rules, regulations and policies according to new laws enacted by the legislature. This office performs the following:

- Regulation Development
- Strategic Planning
- Non-Point Source Reduction
- Total Maximum Daily Loads
- State Implementation Plans
- Air Quality Analysis
- Aquifer Evaluations
- Air Toxics & Emissions Inventories
- Toxic Release Inventory
- Geological Expertise
- Engineering Expertise
- Remediation

Lastly, the *Office of the Secretary* deals with legal issues, the media, public relations and department management. The functions of the Office of the Secretary include:

- Legal Services
- Criminal Investigation
- Technical Expertise
- Internal Audit

- External Audit
- Special Projects
- Communications
- Media Relations

Louisiana Office of Public Health (OPH)

The Office of Public Health is a division of the Department of Health and Hospitals (DHH). Within the Office is the *Center for Environmental Health*. The Center for Environmental Health has programs dealing with several environmental issues in the state, including the *Drinking Water Revolving Loan Fund*. The program oversees the protection of safe drinking water and reports the status of drinking water to the Governor. The program:

- Ensures that a public water system has the technical, managerial and financial capacity to achieve, maintain, and plan for compliance with applicable drinking water standards;
- Provides low-interest loans and other assistance to public water systems to assist them in complying with federal and state drinking water regulations;
- Protects the state's drinking water sources, along with LDEQ, through the identification of potential contamination sources in the vicinity of public drinking water sources; and,
- Provides technical assistance to small public water systems serving less than 10,000 people.

The *Environmental Epidemiology and Toxicology* section of the Center for Environmental Health addresses illnesses and deaths associated with chemicals in the environment. The section:

- Investigates citizens' reports of environmentally related disease clusters (such as cancer, reproductive health related, neurological and respiratory diseases);
- Evaluates the public health threat of accidental releases, explosions and chemical releases, and provides needed information and recommendations to the affected communities, hospitals and physicians treating exposed individuals;
- Issues health/fish consumption advisories;
- Investigates and evaluates adverse health effects related to acute pesticide exposure; and,
- Maintains a registry of chemically sensitive individuals.

The *Engineering Services* section:

- Inspects wastewater plants, home construction, business and pool construction, and other similar projects;
- Certifies that operators of water and wastewater facilities are meeting EPA and Louisiana requirements; and,
- Monitors community and non-community public water supplies for 83 different chemical and biological contaminants.

Lastly, *Sanitarian Services* is responsible for general sanitation in Louisiana. This ranges from individual waste disposal to inspection of restaurants, markets, schools, day care centers, hospitals and nursing homes, and the regulation of oyster growing waters. It administers programs addressing infectious waste, food and drug safety, disease vector control, beach safety and more.

Louisiana Department of Natural Resources (LDNR)

The purpose of the LDNR is to preserve nonrenewable natural resources (land, water, oil, gas, minerals) through conservation, regulation and management of resources. The LDNR is divided into several offices with different programs. The *Office of Conservation* and the *Office of Coastal Restoration and Management* have some regulatory and permitting capabilities. Below is a list of offices within DNR and their responsibilities:

Office of the Secretary

Executive

- Public Information
- Legal
- Technology Assessment/State Energy Office

MANAGEMENT AND FINANCE

- Contracts and Grants
- Fiscal Management
- Human Resources Management
- Procurement (Current Bid List)

OFFICE OF COASTAL MANAGEMENT

- Interagency Affairs and Field Services
- Atchafalaya Basin Program
- Permits and Mitigation
- False River Ecosystem Restoration Initiative
- Louisiana Fuel Team and Playbook

OFFICE OF MINERAL RESOURCES

- Geological and Engineering
- Mineral Income
- Petroleum Lands

OFFICE OF CONSERVATION

- Engineering-Administrative
- Engineering- Regulatory
- Environmental
- Geological Oil and Gas
- Injection and Mining
- Pipeline

INDEPENDENT BOARDS AND COMMISSIONS

- State Mineral Board
- Louisiana Oilfield Site Restoration Commission
- Oyster Lease Damage Evaluation Board

Louisiana Department of Agriculture and Forestry (LDAF)

The LDAF regulates the farming and forestry industries in Louisiana.

The *Office of Agricultural and Environmental Sciences* regulates, monitors and provides for the prevention, control and eradication of all crop and fruit pests or diseases endangering Louisiana's agricultural and horticultural industries. It also oversees the qualifications and practice of people engaged in structural pest control work in the horticulture industry and all agricultural uses of pesticides, including lawn and garden, ornamental and turf uses. The four divisions of the Office of Agricultural and Environmental Sciences are: pesticides, feed and fertilizer, seed, and horticulture.

The *Office of Agro-Consumer Services* regulates weights and measures; licenses weighmasters, scale companies and technicians; licenses and inspects bonded farm warehouses and milk processing plants; and, licenses grain dealers, warehouses and cotton buyers.

The *Office of Animal Health Services* protects the public supply of meat and meat products and fish and fish products, controls and eradicates infectious diseases of animals and poultry, and controls livestock theft and nuisance animals.

The *Office of Forestry* protects, conserves and replenishes the forests of the state.

The *Office of Marketing* promotes the development and growth of markets for Louisiana agricultural and forestry products and develops the channels of distribution to sell these products.

The *Office of Soil and Water* assists in the organization and administration of the Soil and Water Conservation Districts, which protect the land, water and related resources of the state. It is responsible for implementing the agriculture nonpoint source pollution component of Section 319 and Section 404 (wetlands protection) of the federal Clean Water Act, as well as other federal and state mandated soil and water resource management programs.

Louisiana Department of Wildlife and Fisheries (LDWF)

The Department of Wildlife and Fisheries is responsible for managing and protecting Louisiana's abundant natural resources.

The *Office of the Secretary* oversees the financial and business matters of the Department. Three main offices exist in the Department in addition to the Office of the Secretary.

The *Enforcement Division* is responsible for enforcing Louisiana laws regarding fish and wildlife resources and boating safety regulations, federal regulations pertaining to migratory birds and endangered species.

The *Office of Management and Finance* is responsible for accounting and budget control, contract management, grants management, program analysis and management, personnel management, information processing systems, procurement, general administrative and general services, public information services including the Louisiana Conservationist magazine, publications and news, audio-visual services and the LDWF Information and Resource Library.

The *Office of Wildlife* administers the *Wildlife Division* and the *Fur and Refuge Division*. The *Wildlife Division* oversees wildlife conservation programs and gathers biological data. The *Fur and Refuge Division* oversees active marsh management and implements legislation concerning alligators, furbearers and coastal marshlands.

The *Office of Fisheries* consists of two divisions: the *Marine Fisheries Division* and the *Inland Fisheries Division*. Both divisions deal with management and conservation of fish habitats and resources. The *Marine Fisheries Division* deals with marine resources (ocean life) and the *Inland Fisheries Division* deals with freshwater resources (lakes, rivers, etc.).

Louisiana Public Service Commission (LPSC)

The Public Service Commission regulates public utilities and attempts to foster positive, cooperative relationships between providers and customers. It is responsible for ensuring safe, reliable and reasonably priced services for the public utilities and motor carriers. The Commission has jurisdiction over publicly owned utilities providing electric, water, waste water, natural gas and telecommunication services and all electric cooperatives in Louisiana. The LPSC also regulates intrastate transportation services, including passenger carrier services, waste haulers, household goods carriers, non-consensual towing, intrastate pipelines and state ship pilotage. The companies under the Commission's jurisdiction must obtain approval before instituting new rates, issuing stocks and bonds, transferring assets and undertaking major construction projects such as additional power plants, transmission lines, etc. Municipally owned utilities are not under the jurisdiction of the Commission. In New Orleans, the City Council addresses all issues and concerns regarding public utilities.

Louisiana Department of Transportation and Development (LDOTD)

LDOTD focuses on the water resource and transportation needs of Louisiana. One of the goals of this department is to provide these services while protecting the environment.

The *Public Works and Water Resources Division* (PW&WR) provides engineering and technical assistance services to local and state entities to guide the orderly development of ground and surface water resources. This division also administers and implements public works projects for flood control, dam safety, water management programs and projects related to

controlling, developing, conserving and protecting Louisiana's vast water resources, both ground and surface water, to meet the current and future needs of the citizens of the state.

The *Public Transportation Program* is responsible for improving public transit, including highway construction, in all areas of the state so Louisiana's citizens have an adequate level of personal mobility regardless of geographical location, physical limitation or economic status.

Louisiana Office of Culture, Recreation and Tourism (CRT)

The Louisiana Office of Culture, Recreation and Tourism falls under the auspices of the Lieutenant Governor. The goals of the CRT include preserving natural, historical and cultural sites. There are five offices within the Office of Culture, Recreation and Tourism: *Tourism, State Parks, Cultural Development, State Museums* and *State Libraries*. The *State Parks* division develops and manages state parks, state commemorative areas and state preservation areas. It also offers a Land and Water Conservation Grant for groups that are trying to create an outdoor recreation site. The Office of Cultural Development houses the *Division of Historic Preservation*, which is responsible for nominating buildings, sites, districts, etc. to the *National Register of Historic Places*. The Register is the nation's official list of buildings, structures, objects and districts deemed worthy of preservation because they illustrate something about our nation's history or culture. Louisiana has more than 1,100 entries on the list. If a site is on the list, it is protected from federal projects that may adversely impact historic properties under the National Historic Preservation Act and Section 4(F) of the Transportation Act.

Louisiana Office of Homeland Security and Emergency Preparedness

The Louisiana Office of Homeland Security and Emergency Preparedness leads, coordinates and supports the emergency management system to protect lives and prevent the loss of property from all hazards. The LOEP is in charge of responding to natural and human-made disasters. The office works with many other groups that have a role in emergency response and preparedness: the military, legislature, the governor, and state and local officials.

Office of the Governor

The Governor's Office has several offices related to environmental issues: the Office of Coastal Activities, Office of Environmental Education and the Louisiana Oil Spill Coordinator's Office.

The *Office of Coastal Activities* was created by Act 6 of the 1989 Second Extra-Ordinary Session of the Legislature for the conservation and restoration of Louisiana's wetlands. It provides state leadership and direction in the development and implementation of policies, plans and programs to encourage multiple uses of the coastal zone and achieve a balance between development and conservation, restoration, creation and nourishment of coastal resources.

Office of the Legislative Auditor

The Legislative Auditor audits state programs, including state environmental programs, to ensure they are implemented effectively and in compliance with the law. The *Performance Audit Division* provides performance audits, reviews and staff studies of state programs. The division evaluates the effectiveness, efficiency and usefulness of state government programs to state operations. The *Financial and Compliance Audit Division* provides financial and compliance audits of state and local governments within Louisiana. The division's primary responsibility is the financial audit of state government, although limited finance-related audits are performed on local governments. The *Fraud and Abuse Audit Division* investigates allegations of illegal acts and abuse within state and local government in Louisiana. The division also assists the legislature by performing background investigations on certain individuals requiring Senate confirmation. If you are aware of possible theft of public funds or property, or you are aware of any such abuse of public resources, you may contact the Legislative Auditor.

Office of the Attorney General

The Public Protection Division of the Attorney General's office asserts and protects the State of Louisiana's interests by providing legal services in the general areas of consumer protection/environmental law, insurance receivership law and fair housing law. In the environmental area, the section assists the Attorney General in the discharge of his duties under the Louisiana Environmental Quality Act and in connection with the constitutional responsibility and power of the Attorney General as chief legal officer of the state to institute, prosecute or intervene in any civil action to assert or protect a state natural resource interest.

The *Environmental Section* prepares opinions, analyzes legislation and advises officials and employees of the Department of Natural Resources, the Department of Environmental Quality, the Department of Public Safety, the Department of Wildlife and Fisheries, the Department of Culture, Recreation and Tourism, the Office of Public Works, the Department of Agriculture, the U.S. Army Corps of Engineers and other interested federal and state agencies or subdivisions. Staff personnel respond to inquiries and complaints from citizens and coordinate these with governmental action and appropriate agencies.

Louisiana State Police

The Louisiana State Police, within the Department of Public Safety and Corrections, responds to emergency situations, including hazardous spills and contamination. It also is responsible for evacuation procedures to protect the public from environmental harm. For example, if a train carrying hazardous chemicals derails and releases chemicals into the environment, the Hazardous Materials division coordinates the immediate containment and remediation of the problem.

LIST OF FEDERAL ENVIRONMENTAL AGENCIES

EPA (Environmental Protection Agency) Headquarters

At the national level, EPA Headquarters oversees state programs and state implementation of federal environmental laws and provides support for the regional offices. Any complaints or questions should be addressed to Region VI before going to Headquarters. EPA Headquarters consists of 13 offices, each of which deals with a different part of the Agency's administration or different environmental concerns.

The administrative offices encompass the entire range of management needs. The Office of the Administrator provides overall supervision of the Agency. The Office is further divided into:

- Administrative Law Judges
- Children's Health Protection
- Civil Rights
- Communications, Education and Media Relations
- Congressional & Intergovernmental Relations
- Cooperative Environmental Management
- Regional Operations
- Science Advisory Board
- Science Policy Council
- Small and Disadvantaged Business Utilization

The *Office of Research and Development* is responsible for the research and development needs of the Agency's operating programs and the conduct of an integration research and development program. This also includes risk assessment and health research.

The *Office of Policy, Economics, and Innovation* manages regulatory development, economic analysis and innovation to achieve greater and more cost-effective public health and environmental protection.

The *Office of Enforcement and Compliance Assurance* addresses compliance with federal environmental laws while inspiring the regulated community to employ methods that focus on pollution prevention.

The *Office of Environmental Information* is responsible for establishing an innovative center of excellence that advances the creation, management and use of information as a strategic resource for the EPA. The office's responsibilities also include maintenance of the Toxic Release Inventory (TRI) and the Agency's data management.

The *Office of the Inspector General* conducts audits and investigations of the Agency's programs and operations to study their effectiveness. Additionally, this Office responds to citizen complaints in choosing the focus of the audits. For example, the OIG recently released a report

titled “EPA Region 6 Needs to Improve Oversight of Louisiana’s Environmental Programs.” This evaluation was a response to citizen complaints about the effectiveness of Louisiana’s regulatory agencies.

The *Office of International Affairs* manages Agency involvement in international policies and programs that cut across Agency offices and regions. It also provides leadership and coordination on behalf of the Agency and acts as the focal point for international environmental matters. For instance, issues of global climate change fall under the responsibilities of this Office.

The *Office of Civil Rights* serves as a focal point for ensuring that communities comprised predominately of people of color or low-income populations receive protection under environmental laws. It can investigate complaints regarding violations of environmental laws in poor areas and evaluate whether particular communities are not receiving adequate protection.

The *American Indian Environmental Office* coordinates the Agency-wide effort to strengthen public health and environmental protection on federally protected reservations, with a special emphasis on building Tribal capacity to administer their own environmental programs.

On the other end of the spectrum are the media-specific offices that handle the environmental concerns of the Agency.

The *Office of Air and Radiation* oversees the air and radiation protection activities of the Agency. Air pollution, clean air and air quality information is provided by this Office through development of the national programs, technical policies and regulations for controlling air pollution and radiation exposure. The Office is concerned with all forms of air pollution and its prevention including indoor and outdoor air quality, industrial air pollution, pollution from vehicles and engines, radon, acid rain, stratospheric ozone depletion and radiation protection.

The *Office of Prevention, Pesticides and Toxic Substances* develops national strategies for toxic substance control and promotes pollution prevention and the public’s right to know about chemical risks.

The *Office of Solid Waste and Emergency Response* provides policy, guidance and direction for the land disposal of hazardous wastes, underground storage tanks, solid waste management, encouragement of innovative technologies, source reduction of wastes and the Superfund program. However, the actual Superfund program is implemented and enforced at the regional level.

Finally, the *Office of Water* is responsible for the Agency's water quality activities. These include development of national programs, technical policies and regulations relating to drinking water, water quality, ground water, pollution source standards, and the protection of wetland, marine and estuarine areas.

EPA Region 6

The EPA is divided into several regions. Louisiana falls under the jurisdiction of Region VI along with Arkansas, New Mexico, Oklahoma, Texas, and many Indian tribes. The main office for Region VI is located in Dallas, Texas. Its purpose is to oversee the implementation of federal environmental laws in its states. The regional office is further subdivided into divisions.

Management Division is responsible for:

- Laboratory Analysis
- Strategic Planning
- Budget and Financial Resources
- Human Resources
- Information Planning and Management
- Computer Services
- Telecommunications
- Administrative Support

Superfund Division implements and enforces:

- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
- Superfund Amendments and Reauthorization Act (SARA)
- Oil Pollution Act (OPA)

Multimedia Planning and Permitting Division implements and enforces:

- Clean Air Act (CAA)
- Resource Conservation and Recovery Act (RCRA)
- Toxic Substances Control Act (TSCA)
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
- Underground Storage Tank (UST) program enforcement

Water Quality Protection Division implements and ensures:

- Wetlands protection
- Water quality planning, evaluation and management
- Water quality monitoring and data assessment
- Public water supply
- Groundwater protection
- State revolving funds/construction grants
- National Pollutant Discharge Elimination System (NPDES) permits

The *Compliance Assurance and Enforcement Division* conducts multimedia inspections and investigations, monitors quality assurance and, where appropriate, determines enforcement actions for the CAA, Clean Water Act, Safe Drinking Water Act, RCRA and the TSCA. The Regional

Administrator relies on this division for: pollution prevention, National Environmental Policy Act review, maintenance of federal facilities, comparative risk assessment, technology transfer coordination, and geographic information systems.

The *Office of External Affairs* is responsible for maintaining effective relationships with federal, state and local elected and appointed officials, community groups and the media. The Office also serves as the Regional Administrator's focal point for Native American programs and Environmental Education.

Finally, the *Office of Regional Counsel* is responsible for advising the Regional Administrator on the legal sufficiency of permits, program delegation to the states, grants, the Freedom of Information Act, general law, personnel and ethics issues. Regional Counsel also provides official legal interpretation of Agency regulations.

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (Corps) plans, designs, constructs, operates and maintains all federally operated navigation, flood control, hurricane protection and water resource development programs. The *Civil Works Division* addresses water infrastructure, environmental management and restoration, response to natural and manmade disasters, and engineering and technical services to the Army, the Department of Defense and other federal agencies. The Corps manages flood control efforts ranging from small, local protection projects (levees or non-structural flood control measures) to major dams. Since passage of the National Environmental Policy Act of 1969, environmental protection is an important component of the civil works planning process.

The Corps has been involved in regulating activities in navigable waterways through the granting of permits since passage of the Rivers and Harbors Act of 1899. It has authority over dredging and filling in the "waters of the United States," including wetlands. A major aspect of the regulatory program is determining which areas qualify for protection as wetlands. In making decisions on whether to grant, deny or set conditions on permits, the Corps is required to consider "all factors in the public interest," including economic development and environmental protection.

New Orleans District

The Corps' New Orleans District includes the bottom half of the state. It extends from the Gulf of Mexico to north of Baton Rouge. The major responsibilities of the New Orleans District are civil works projects: flood control, navigation and the environment. The *Planning, Programs and Project Management Division* and the *Operations Division* are the most relevant.

The Planning, Programs and Project Management Division is divided into several branches:

The *Project Management Branch*, which conducts feasibility, reevaluation and other studies to determine the engineering, environmental and economic viability of proposed water resources projects.

The *Economic and Social Analysis Branch*, which conducts investigations into the economic feasibility of flood protection projects, improvements to the navigation infrastructure and environmental restoration and preservation proposals, including the social impacts associated with project construction.

The *Environmental Planning and Compliance Branch*, which conducts investigations to determine environmental impacts and benefits associated with flood control, navigation, and environmental restoration investigations and projects.

The *Coastal Management Branch*, which manages the Coastal Wetlands Planning Protection and Restoration Act (CWPPRA) and Louisiana Coastal Area (LCA) programs, which are intended to preserve or restore Louisiana's coast.

The *Operations Division* has several functions, including navigation; permitting and regulation of all navigable waters of the United States, their tributaries, adjacent wetlands and isolated waters; and readiness and emergency operations that provide assistance to local and state entities when natural disasters or other emergencies occur.

U.S. Department of the Interior (DOI)

The DOI has many environmental responsibilities. The Department is divided into four service areas, each administered by an Assistant Secretary: Fish and Wildlife and Parks; Indian Affairs; Land and Minerals Management; and, Water and Science. Each service area is further broken down into specific services and bureaus that focus on a particular aspect of the service.

- Fish and Wildlife and Parks—the *National Park Service* (NPS) and *U.S. Fish and Wildlife Service* (FWS)
- Indian Affairs—the *Bureau of Indian Affairs* (BIA)
- Land and Minerals Management—the *Bureau of Land Management* (BLM), *Minerals Management Service* (MMS) and *Office of Surface Mining* (OSM)
- Water and Science—*Bureau of Reclamation* (Reclamation) and *U.S. Geological Survey* (USGS)

The *National Park Service* preserves and maintains the National Park System. In addition to what we would traditionally consider parks, the NPS also registers and preserves historic places and landmarks and administers Land and Water Conservation grants.

The *U.S. Fish and Wildlife Service* conserves and protects the nation's animal species on land and water. It administers the National Wildlife Refuges and operates the National Fish Hatcheries. The FWS also administers the Endangered Species Act (ESA) and manages the Habitat Conservation Plans required by the ESA.

The Department of the Interior is the trustee for Native American lands in this country. As its principal agent, the *Bureau of Indian Affairs* is the coordinator of government-to-government relations between the federal government and the sovereign nations of the American Indian tribes.

The *Bureau of Land Management* (BLM) manages and maintains the remaining federal public lands that are not already under the care of the other services and bureaus. The BLM's land is managed for "multiple uses," including extraction of resources and intensive recreation as well as conservation, with some special BLM areas set aside for landscape conservation, while allowing traditional uses such as grazing.

The *Mineral Management Service* manages the mineral resources on the Outer Continental Shelf (part of the floor of the Gulf of Mexico that is often excavated for oil) in an environmentally sound and safe manner and collects, verifies and distributes mineral revenues from federal waters and lands, including those belonging to Native Americans. The minerals under the care of the service include natural gas and oil, and the revenues raised from mineral leases help fund the Land & Water Conservation Fund, the National Historic Preservation Fund and American Indians Fund.

The *Office of Surface Mining* (OSM) administers the Surface Mining Control and Reclamation Act of 1977. As mandated by this Act, the OSM ensures that coal mines are operated in a manner that protects citizens and the environment during mining, that the land is restored to beneficial use following mining and that the effects of past mining are mitigated by aggressively pursuing reclamation of abandoned mine lands.

The *U.S. Geological Survey* is charged with providing unbiased and reliable information to the nation about the earth and its resources. It does so through scientific research, monitoring, collection, analysis, interpretation and dissemination of natural hazard, geologic, water and geographic and biological data.

Finally, the *Bureau of Reclamation* manages, develops and protects water and related resources in an environmentally and economically sound manner for the public. This includes developing and building hydroelectric power plants and dams as well as supplying water to the nation's farms, municipalities and industries.

U.S. Nuclear Regulatory Commission (NRC)

The Nuclear Regulatory Commission formulates policies, develops regulations governing nuclear reactors and nuclear material safety, issues orders to licensees and adjudicates legal

matters. NRC's primary mission is to protect the public health and safety, and the environment from the effects of radiation from nuclear reactors, materials and waste facilities. It also regulates nuclear materials and facilities to promote the common defense and security. The NRC is charged with addressing three specific areas of Nuclear Safety: nuclear reactors, nuclear materials, and radioactive waste. The *Nuclear Reactors Division* oversees the NRC's reactor program and program implementation in each region. Louisiana is in Region 3. The *Nuclear Materials Division* is responsible for the NRC's materials, oversight of programs in the separate regions and safety research. The *Radioactive Waste Division* is responsible for waste regulation and program implementation in the regions.

U.S. Department of Agriculture Forest Service

The USDA Forest Service manages national forests and grasslands. Its mission is to sustain the health, diversity and productivity of the nation's forests and grasslands to meet the needs of present and future generations. Additionally, it researches the best methods for conservation of forests. The Forest Service has four levels of offices:

- *Ranger District* – local district rangers work on ground activities like trail construction, campground operation, vegetation, habitat management and timber sales.
- *National Forest* – coordinates activities between the multiple ranger districts within each forest, allocates the budget and provides technical support to the districts.
- *Region* – located in each of the nine regions, this Office provides regional support by coordinating activities, monitoring national forest activities, issuing guidance for forest plans, and allocating funding. Louisiana is in Region 8.
- *National Level* – the Washington, D.C., office provides broad policy, develops a budget with the President, provides information to Congress on accomplishments and monitors agency activity.

Federal Energy Regulatory Commission (FERC)

The Federal Energy Regulatory Commission regulates and oversees energy industries in the economic and environmental interest of the American public. Specifically, its responsibility is to: regulate sales and transmission of natural gas and electricity; regulate transmission of oil by pipeline; license and inspect private, municipal and hydroelectric projects; oversee environmental concerns relating to natural gas, oil, electricity and hydroelectric projects; and approves the siting of and abandonment of interstate natural gas facilities, including pipelines, storage and liquefied natural gas. This department also provides many resources for research on regulations, permits and notices. To learn more, visit their website (Note: by the time you read this, the website may have change).

<http://www.ferc.gov/>

If you think you might be affected by a proposed natural gas or hydroelectric project regulated by the Commission, you have certain rights. These rights range from being able to look at project correspondence to becoming an intervener and being able to appeal any FERC decisions in federal court. It is possible to request public notices and submit comments regarding specific cases on the FERC dockets.

National Oceanic and Atmospheric Administration (NOAA) Fisheries—National Marine Fisheries Service

NOAA Fisheries is the federal agency, a division of the Department of Commerce, responsible for the stewardship of the nation's living marine resources and their habitat. NOAA Fisheries is responsible for the management, conservation and protection of living marine resources within the United States' Exclusive Economic Zone (water three to 200 miles offshore). NOAA Fisheries assesses and predicts the status of fish stocks, ensures compliance with fisheries regulations and works to reduce wasteful fishing practices. Under the Marine Mammal Protection Act and the Endangered Species Act, NOAA Fisheries recovers protected marine species (i.e. whales, turtles) without unnecessarily impeding economic and recreational opportunities. With the help of the six regional offices (Louisiana is the Southeast Region) and eight councils, NOAA Fisheries works with communities on fishery management issues. It also works to promote sustainable fisheries and to prevent lost economic potential associated with overfishing, declining species and degraded habitats. NOAA Fisheries strives to balance competing public needs and interest in the use and enjoyment of our oceans' resources.

U.S. Department of Justice (U.S. DOJ)

The U.S. Department of Justice enforces the law and defends the interests of the United States according to the law; ensures public safety against threats foreign and domestic; provides federal leadership in preventing and controlling crime; seeks just punishment for those guilty of unlawful behavior; administers and enforces the nation's immigration laws fairly and effectively; and, ensures fair and impartial administration of justice for all Americans. Since the attacks of September 11, 2001, the Department has further clarified its mission to include its responsibility to prevent further loss of life to terrorism, and to protect the lives and liberty of Americans.

The *U.S. Attorneys* serve as the nation's principal litigators under the direction of the Attorney General, who leads the U.S. Department of Justice. There are 93 U.S. Attorneys stationed throughout the United States, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands. U.S. Attorneys are appointed by, and serve at the discretion of, the President of the United States, with advice and consent of the U.S. Senate. Each U.S. Attorney is the chief federal law enforcement officer of the United States within his or her particular jurisdiction. U.S. Attorneys conduct most of the trial work in which the United States is a party. The U.S. Attorneys have three statutory responsibilities under Title 28, Section 507 of the U.S. Code:

- the prosecution of criminal cases brought by the federal government;

- the prosecution and defense of civil cases in which the United States is a party; and,
- the collection of debts owed the federal government that are administratively uncollectible.

The *Environment and Natural Resources Division* brings cases against those who violate the nation's civil and criminal pollution-control laws. Others defend environmental challenges to government programs and activities and represent the United States in matters concerning the stewardship of the nation's natural resources and public lands. The Division also is responsible for the acquisition of real property by eminent domain for the federal government, and brings and defends cases under the wildlife protection laws. In addition, the Division litigates cases concerning Indian rights and claims. Many of the cases handled by the Division are precedent setting and challenge and hone the skills of the Division's dedicated corps of lawyers.

U.S. Coast Guard (USCG)

The U.S. Coast Guard is one of the five armed forces of the United States and the only military organization within the Department of Homeland Security.

LIST OF LOUISIANA LIBRARIES

When choosing a library, remember that the most complete library is usually the best library because you save time by doing all of your research in one building. A good law library should contain at least the *U.S. Code* (preferably the *U.S. Code Annotated* because it gives you citations of other sources to look up for a better understanding of the law), *Louisiana Revised Statutes*, *Code of Federal Regulations*, *Louisiana Administrative Code*, *Federal Register*, *Louisiana Register*, and federal and Louisiana state court case reporters. For purposes of this section, a law library is a library that has all of these texts.

Some libraries (not necessarily law libraries) are state or federal depositories. This means the library receives most regulations and other official state or federal publications. A state depository library will not necessarily have all regulations published by the state agencies. You may have to contact a state agency to get recent regulations that are not found in state depositories. Before beginning your research, call to find out if the library you will visit has the particular regulation you need. Depository libraries also have reports and other publications of state and federal agencies.

The librarian may be able to order copies of government documents or obtain them through interlibrary loan if they are not on the shelves. Many Louisiana libraries are part of a network of libraries that share books and other publications. Individuals also may purchase copies of federal government documents through the U.S. Government Printing Office (GPO), and obtain state documents directly from state agencies. For more information about Louisiana libraries, visit the State Library of Louisiana's Web site at www.state.lib.la.us.

LOUISIANA AREA LIBRARIES

Below is a list of some of the libraries in Louisiana that may be helpful for legal research.

Alexandria:

Louisiana State University at Alexandria, James C. Bolton Library (8100 Highway 71 South, Tel. 318/473-6437) is both a state and federal depository library.

Rapides Parish Library (411 Washington St., Tel. 318/342-4922) is a state depository.

Baton Rouge:

State of Louisiana Library (701 North 4th St., Tel. 252/342-4923) is the largest state depository in Louisiana. Because this is not a law library, it will only be helpful if you are looking for agency regulations or reviewing state laws or legislative histories. Some legislative hearings will also be on record (other records must be obtained directly from the Louisiana Senate or House of Representatives).

Louisiana State University, Paul M. Hebert Law Center (Tel. 225/388-8815) is a law library open to the public. It is both a state and federal depository.

Louisiana State University, Troy H. Middleton Library (Tel. 225/578-5652) is the main library at LSU. It is the regional depository for federal documents and is a complete state depository.

Southern University Law Library, Law Center Library (Tel. 225/771-2315), is a law library. It is both a state and federal depository.

Hammond:

Southeastern Louisiana University Library, Linus A. Sims Memorial Library (Tel. 504/549-3860) is a federal and state document depository.

Lafayette:

Lafayette Parish Public Law Library (600 Jefferson St., Tel. 337/237-4700) is a law library open to the public.

University of Louisiana at Lafayette, Dupre Library (Tel. 337/482-6396) is a state university library, but borrowing privileges are limited to students enrolled in the school. For a small fee, you can become a "friend of the library." This library is both a state and federal depository, but is not a law library.

Lake Charles:

Calcasieu Parish Library (301 W. Claude St., Tel. 337/475-8792) is a public library. This is not a law library, but it is a state depository.

McNeese State University, Lether E. Frazar Memorial Library (Tel. 337/475-5716) is a state university library, but borrowing privileges are limited to students enrolled in the school. However, you can use the collection of the library, and for a small fee you can become a "friend of the library" with borrowing privileges. This is not a law library, but it is a state and federal depository.

Monroe:

University of Louisiana at Monroe, Sandel Library (Tel. 318/342-1050) is a state university library, with borrowing privileges limited to enrolled students. For a small fee, you can become a "friend of the library." This library is a federal and state depository, but is not a law library.

Ouachita Parish Public Library (1800 Stubbs Ave., Tel. 318/327-1490) is a state depository, but is not a law library.

Natchitoches:

Northwestern State University of Louisiana, Eugene P. Watson Memorial Library (Tel. 318/357-3280) is both a federal and state depository, but is not a law library.

New Orleans:

Law Library of Louisiana (100 Supreme Court Bldg., 301 Loyola Ave, Tel. 504/568-5705). The Supreme Court library is open to the public and is a state and federal depository.

Loyola Law Library (7214 St. Charles Ave., Tel. 504/861-5540) is a private law library, but it may be used with permission. The library is a state and federal depository and has a good environmental law section.

New Orleans Public Library, Simon Hensheim & Fisk Libraries (219 Loyola Ave., Tel. 504/596-2602) is open to the public and is both a federal and state depository. In this library you may find some general, non-legal documents that are not in the Supreme Court library, but it is not a law library.

Tulane University, Monte M. Lemann Memorial Law Library (6329 Freret St., Tel. 504/865-5952) contains an extensive environmental law section and is a partial state and federal depository.

Tulane University, Howard-Tilton Memorial Library (7001 Freret St., Tel. 504/865-5605) is the University's main library and is both a federal and state depository. You may find government documents here that are not in Tulane's law library. Tulane University libraries are private, but they may be used with permission from the librarians.

U.S. Court of Appeals, Fifth Circuit Library (600 Camp St., Room 106, Tel. 504/589-6510) is open to the public and specializes in federal legal materials; it does not have a complete state collection.

University of New Orleans, Earl K. Long Library (Tel. 504/280-6556) is open to the public and is the largest federal depository in the New Orleans area. It is not a law library.

Ruston:

Louisiana Tech University, Prescott Memorial Library (Tel. 318/257-3555) is a private library, but may be used with permission. This library is both a state and federal depository, but it is not a law library.

Shreveport:

Louisiana State University at Shreveport, Noel Library (Tel. 318/798-4131) is a federal document depository.

Shreveport Memorial Public Library (424 Texas, Tel. 318/226-5871) is a federal and state document depository and contains a law library.

Thibodaux:

Nicholls State University, Allen J. Ellender Memorial Library (Tel. 504/448-4647 or 504/4487-4646) is a federal and state document depository.

ASK THE LIBRARIAN

The librarian is your guide and best source of help in the library. Do not hesitate to ask for help whenever you cannot find texts you are looking for, or if you are not sure if you are looking in the right place. The librarian may also be able to give you ideas on how to approach your problem from a different angle. Remember, the librarian is there to help you find what you need.

WHEN LIBRARIES ARE UNAVAILABLE IN YOUR AREA

If there are no libraries near your community, contact your local parish or city clerk of the court who may have documents relevant to your research.

Tulane Environmental Law Clinic
6329 Freret St - New Orleans, LA 70118
504-865-5789
www.tulane.edu/~telc