

NOTICE OF INTENT
Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Natural and Scenic Rivers Regulations (LAC 76:IX.105 et seq.)

The Louisiana Wildlife and Fisheries Commission hereby advertises its intent to adopt the following changes to regulations for the Natural and Scenic Rivers System.

Title 76
WILDLIFE AND FISHERIES
Part IX. Natural and Scenic River Systems
Chapter 1. Administration of the
Natural and Scenic Rivers and
Historic and Scenic Rivers

* * *

§105. Applicability of These Regulations

A. These regulations shall apply to all uses proposed to be undertaken on the stream or on adjacent lands within 100 feet of a designated system stream by any "person" whether or not concurrence, authorization, or matching funding is provided by any state agency, local governing authority, political subdivision, or special district of the State of Louisiana, unless restriction of those uses are exempted from regulations pursuant to the provisions of R.S. 56:1852(B). **These regulations shall further apply to all activities more than 100 feet from designated system streams that have potential to significantly impact the ecological integrity of a system stream.**

* * *

§115. Prohibited Activities

A. The following uses of a system river, and all uses functionally related thereto, shall be absolutely prohibited:

1. channelization;
2. clearing and snagging;
3. channel realignment;
4. reservoir construction; ~~and~~
5. commercial cutting or harvesting of trees or timber in violation of the provisions of R.S. 56:1854-;
- 6. use of a motor vehicle or other wheeled or tracked vehicle on a designated system stream, except for (a) permitted uses, and; (b) direct crossings by immediately adjacent landowners, lessees, or other persons who have written permission from the landowner to access adjoining tracts of land, for noncommercial activities in a**

manner that does not directly and significantly degrade the ecological integrity of the stream. Written permission must be in the person's possession and include the landowner's contact information; and

7. any use requiring a permit where a permit has not been obtained.

§117. Permitted Activities

A. All activities that may detrimentally affect or significantly degrade the wilderness quality, aesthetic values, or the ecological integrity of a system river shall be subject to a permit except:

1. those prohibited uses set forth in §115 of these regulations;
2. normal activities of private landowners within the boundaries of their property as provided by R.S. 56:1852(B); and
3. harvesting of trees in accordance with R.S. 56:1854, provided that prior notification of any commercial harvesting of trees shall be given to the Louisiana Office of Forestry.

B. Activities requiring permits shall include, but not be limited to, the following activities:

1. crossings by roads, bridges, railroads, pipelines or utilities;
2. sharing of land and airspace by such roads, railroads, pipelines and utilities;
3. point source discharge of any pollutant (prior to any person applying to the Department of Environmental Quality for a permit to discharge any pollutant into a system river, the person shall give written notice to the administrator);
4. prospecting, drilling and mining for nonrenewable natural resources;
5. structures and buildings of any kind or size;
6. piers, boat slips, bulkheads and landings;
7. commercial uses, activities and access;
8. commercial signs or other forms of outdoor advertising that are visible from the waters within a natural and scenic river; ~~and~~
9. water withdrawals, except for withdrawals made by an individual, adjacent property owner solely for residential purposes;

10. mooring of houseboats or floating camps on system streams except:

a) when the houseboat or floating camp is moored to a legally permitted piling, pier or bulkhead or moored to trees using connections that do not damage the trees and with the written permission of the owner of the trees. Written permission must be physically on the houseboat or floating camp and include the owner's contact information; and

b) houseboats moored on a System Stream shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the System Stream is located verifying that it has an approved sewerage disposal system on board. Furthermore, all occupants of houseboats and floating camps when on a System Stream must utilize an approved sewerage disposal system.

C. Application. ~~Upon written request,~~ The administrator shall provide an application form to any person wishing to apply for a permit. Any person who proposes to make any permitted use of a system river, shall submit one **complete** original ~~and six copies of a complete~~ application to the administrator. **Any documents larger than 8½" x 14" must**

be submitted digitally in a department approved digital format. The application shall contain:

1. name, address and telephone numbers of the applicant;
2. names and addresses of adjoining property owners whose property also adjoins the waterway;
3. background information on the proposed use;
4. a detailed description of the proposed use;
5. full description of any portion of the project which is under development or is completed;
6. photographs and maps of the area where the uses would be made;
7. full and thorough evaluation of the use's effect on the criteria listed in Subsection F, below;
8. any alternatives to the proposed action;
9. description of steps taken to minimize detrimental effects to the system river, and measures taken to ensure preservation of the system;
10. identification of all authorizing local, state, and Federal agencies and all permits applied for or obtained from such agency; and
11. description of any noncompliance by applicant, adjudicated within Louisiana, regarding the Louisiana Scenic Rivers Act, the United States Wild and Scenic River Act, and all regulations and ordinances pertaining to these acts.

* * *

I. Time Period for Review of the Application. The administrator shall make a decision whether to grant or deny the permit within ~~45~~ 30 days after the adjournment of the hearing or the end of the written comment period, whichever is latest.

* * *

R. Appeals of Final Decision. Any person ~~shall be entitled to an appeal in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.~~ who is denied a permit by the department **may institute legal proceedings against the department in the Nineteenth Judicial District Court.**

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1844, 56:1849, 56:1852 and 56:1854.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 2:456 (December 1976), amended by the Department of Wildlife and Fisheries, Office of the Secretary, LR 17:682 (July 1991).

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and

Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out in R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments of the amended Rule to: Louisiana Department of Wildlife and Fisheries, Attn: Keith Cascio, Scenic Rivers Coordinator, P.O. Box 98000, Baton Rouge, Louisiana 70898-9000 no later than 4:30 p.m., December 20, 2013 [the original November 29, 2013 deadline for comment has been extended].

Ronald Graham
Chairman