



Status of OCPR/CPRA Emergency Regulations and Permanent Regulations Development

David Peterson – La. AG's Office – Asst. Attorney General - AG Designee to CPRA
Ken Ortego – Vilar and Elliott – CPRA/OCPR Contract Counsel

CPRA/OCPR Authority to Adopt Regulations

- Act 523 of 2009 - RS 49: 214.5.2 and 214.6.1
- 49:214.5.2(A)(6): CPRA has authority to develop procedures in accordance with the Administrative Procedure Act and take actions against any entity, including political subdivisions, to enforce compliance with the comprehensive master coastal protection plan. Such procedures and actions may include but are not limited to determinations of noncompliance; appeal from such determinations; the taking of administrative action, including the withholding of funds; and civil action, including the seeking of injunctive relief, or any other remedy necessary to ensure compliance with the plan.
- 49:214.5.2(B)(4) CPRA shall adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of [RS 49:214.1, et seq].
- 49:214.6.1(A)(2) and 49:214.6.2(F): OCPR shall be the implementation and enforcement arm of the Coastal Protection and Restoration Authority and directed by the policy set by the CPRA. It may propose and adopt rules and regulations to carry out its duties pursuant to the rulemaking procedures set forth in the Administrative Procedure Act.

Emergency Safety Regulations

- Enacted effective as of May 17, 2011, at 5 P.M., to expire on the earlier of lifting of the Governor's Declaration of Emergency for Mississippi River and Tributaries Flooding or the statutory limit on Emergency Regulations of 120 days from effective date (approximately Sept. 14)
- Purpose: to carry out the statutory directive (Act 523 of 2009 - RS 49: 214.5.2) to enforce compliance with the master and annual Coastal Protection Plans, and to assist the local levee and flood protection authorities to ensure public safety by establishing rules and delegating enforcement authority of the OCPR to the local authorities most capable of enforcing them.
- Generally prohibited use of the levees and nearby vulnerable areas during times that levees were saturated and weakened due to abnormally high water levels.
- Authorized the imposition of fines as a means of enforcing the safety regulations.
- Enforcement procedures were established to allow local levee authorities to enforce violations of the Regulations.
- OCPR has received notice of violations and authority has been delegated by OCPR to local enforcement authorities to proceed with enforcement action in connection with violations.

Permanent Levee Safety Regulations

Purpose and Goals

- In light of the recent \$15+ billion investment in coastal levees and flood protection structures, it is imperative that rules be put in place to ensure the integrity of the flood protection devices designed to enhance public safety and protect that investment.
- The permanent regulations promulgated by CPRA/OCPR will be applicable in the coastal area as defined in R.S. 49:214.2(3).
 - Regulations do not impact levees in the northern portion of the State outside of coastal area.
- The regulations implement a portion of the statutory directive (Act 523 of 2009 – R.S. 49:214.1 et seq.) that CPRA/OCPR enforce compliance with the comprehensive master and annual coastal protection plans.
- On many flood protection and integrated coastal protection projects, the State is contractually obligated to comply with restrictions and protections mandated by the US Army Corps of Engineers, and the regulations are designed to ensure compliance with those mandates.

General Content of Regulations

- Formalize a permit process in connection with construction and/or other activities that could impact levee or flood control safety and integrity.
- As currently drafted, envision local levee districts providing front-line administration of the regulations and the permitting and enforcement processes, since levee authorities and districts are most familiar with the levees and flood control structures involved.
- Oversight of the permitting and enforcement processes by OCPR.
- Call for receipt of Corps of Engineers approval so as to ensure compliance with Corps mandates.
- Provide ample opportunities for review and appeal of the requested permit applications, including review under the APA administrative review process.

Status of Drafting and Promulgation

- Several rounds of preliminary drafts have been prepared internally and vetted with CPRA/OCPR staff and administration.
- Current draft is under review by ALBL and various levee and flood control districts and authorities.
- Meetings have been scheduled with local levee authorities and districts to receive comments.
- Draft will be prepared to incorporate thoughts, concerns and concepts of local levee authorities and districts.
- Draft vetted with local levee authorities and districts will be circulated to other interested stakeholders for input and revision.
- Final proposed regulations will be compiled after assimilating the input of the local authorities and interested stakeholders, and the formal regulation promulgation and publishing process will begin through the Louisiana Register.

Formal Regulation Adoption

- Submission for Publication of the Notice of Intent in the Louisiana Register.
- Submission of the proposed regulations to the Governor and both Legislative bodies for review, comment and (potential) hearings.
- Publication in the Louisiana Register on the 10th day of the month submitted.
- If requested, a public hearing must be held between 35 – 40 days after publication of Notice of Intent.
- Submission of a second report to Legislative oversight committees reflecting outcome of public comments and/or hearings, and agency's response to those comments.
- Legislative Oversight Committee Hearing if requested by legislative committee (within 5-30 days after submission of the second report).
- Legislative Oversight Committee reports to the Agency and the Governor if a Committee objects.
- Governor reviews and can overrule or agree with committee.
- After satisfying statutory requirements, the rules can be adopted by the agency and published in the State Register.
- Minimum time to adoption is 100 days from publication of Notice of Intent.



QUESTIONS

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Contacts:

Jackson Logan or David Peterson

Phone: 225-326-6000

Email: loganj@ag.state.la.us or petersond@ag.state.la.us