

4 State Jurisdictions

The following chapter, by attorney Lisa Schiavinato of Louisiana Sea Grant Legal Program, describes the myriad state agency jurisdictions related to aquatic invasive species in Louisiana. Although some jurisdictions below may only be peripherally relevant to AIS, they were included for two reasons: (1) this management plan may eventually be expanded to encompass terrestrial as well as aquatic invasive species, and including terrestrial jurisdictional information may aid Louisiana in the expansion process; and (2) due to the unpredictability of bioinvasions, the jurisdiction information below may be relevant in a future rapid-response scenario. The Louisiana Task Force chose to include both directly and indirectly invasive-species-relevant jurisdictional information in this first management plan.

Agricultural Commodities

The Louisiana Department of Agriculture and Forestry (LDAF) has jurisdiction over agricultural commodities in Louisiana.¹ Agricultural commodities include sugar, cotton, all agricultural products commonly classified as grain, including rice, rough rice, corn, wheat, oats, rye, soybeans, barley, milo, and grain sorghum,² and any other agricultural commodity or other farm product which the Agricultural Commodities Commission may declare a commodity by regulation.³

Apiaries

The Department of Agriculture and Forestry has jurisdiction over bees and requires beekeepers to register with the Commissioner of Agriculture and Forestry each year.⁴ LDAF may enter any warehouse or other premises to inspect any honeybees or beekeeping equipment when there is probable cause that the bees or beekeeping equipment are infected with a contagious or infectious disease or to ascertain whether the bees have been transported in violation of the law.⁵ LDAF may inspect honeybees or beekeeping equipment shipped into Louisiana, even if a certificate of inspection accompanies the honeybees or beekeeping equipment from another state.⁶ If any honeybees or beekeeping equipment are brought into Louisiana in violation of the law, LDAF may require their removal.⁷ If LDAF finds any honeybees or beekeeping equipment infected with or exposed to any contagious or infectious diseases, it may require their destruction, treatment, or disinfection.⁸

Aquaculture and Mariculture

The purpose of this portion of the State Jurisdictions section is to clarify the jurisdiction over non-native fish species used in aquaculture facilities in Louisiana. Jurisdiction in this area recently changed when the legislature passed an aquaculture bill creating the Louisiana Aquaculture Coordinating Council.

The Louisiana Department of Wildlife and Fisheries (LDWF) has jurisdiction over the permitting process of mariculture⁹ in Louisiana's coastal zone¹⁰ and over the harvest of mariculture fish.¹¹ LDWF shares jurisdiction over aquaculture with the Louisiana Department of Environmental Quality (LDEQ.) LDEQ regulates Concentrated Aquatic Animal Production Facilities (CAAPF), which means "a hatchery, fish farm, or other facility" with fish or other aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year.¹² The CAAPF definition does not include facilities of cold-water fish species that produce less than 9,090 harvest weight kilograms of aquatic animals per year and

¹ See La. R.S. 3:3405.

² See La. R.S. 3:3402(1).

³ See *id.* See also La. R.S. 3:3405(b)(4).

⁴ See La. R.S. 3:2305(A).

⁵ La. R.S. 3:2308(A).

⁶ La. R.S. 3:2306(E).

⁷ La. R.S. 3:2308(D).

⁸ La. R.S. 3:2308(C).

⁹ "Mariculture" is defined in the Louisiana Agriculture Finance Act as "aquaculture which is practiced in brackish or saline water and includes hatchery breeding, spawning, transportation, implantation, propagation, growout, and harvesting of domesticated fish and other domesticated aquatic species." La. R.S. 3:263(10).

¹⁰ See La. R.S. 56:579.1. "Aquaculture" is defined in La. R.S. 56:356 as "the production of fish in a controlled environment in private waters on private lands." Aquaculture includes, but is not limited to, "the commercial production, storage, processing, marketing, distribution, export or importation of any seafood, including but not limited to catfish, crustaceans, freshwater prawns, mollusks, and shiners and other bait species." *Id.*

¹¹ See La. R.S. 56:579.2.

¹² LA. ADMIN. CODE Tit. 33, 9:Appendix C(I)(A).

that feed less than 2,272 kilograms of food during the calendar month of maximum feeding.¹³ For facilities that produce warm-water fish species, the CAAPF definition does not include facilities with closed ponds that discharge only in periods of excess runoff or facilities that produce less than 45,454 harvest weight kilograms of aquatic animals per year.¹⁴ However, despite these exemptions, LDEQ may still designate a facility as a CAAPF if LDEQ determines that it "significantly contributes" to pollution in state waters.¹⁵ If a facility is designated as a CAAPF then it is a point source subject to the Louisiana Pollution Discharge Elimination System (LPDES) permit program, which is administered by LDEQ.¹⁶ Discharges into aquaculture projects also are subject to the LPDES permit program.¹⁷

The Louisiana Aquacultural Development Act (LADA)¹⁸ will develop a modern, sustainable aquaculture industry in the state through a regulatory program "that allows for the development of current and future aquacultural production, while at the same time protecting the native fish and aquatic life and wildlife and their natural habitat."¹⁹ The primary mechanism by which this will be accomplished is through the Louisiana Aquaculture Coordinating Council (LACC), which is housed within LDAF.²⁰ The LACC consists of 15 members appointed by the Commissioner of Agriculture and Forestry (hereinafter referred to as the Commissioner) and confirmed by the state Senate.²¹

The powers of the LACC are to:

- Develop and advise a regulatory framework for the growth and maintenance of sustainable aquaculture in the state and to promote aquaculture and related products;
- Determine and recommend to the Wildlife and Fisheries Commission, based on scientific assessment, which species of aquatic livestock are suitable for aquaculture in the state;
- Recommend to the Commissioner criteria for requiring licenses and permits and for granting or denying licenses and permits;
- Hold hearings on alleged violations of the LADA or of rules and regulations pursuant thereto;
- Advise the Commissioner on civil penalties that may be imposed or injunctive or other civil relief that may be sought for violations; and
- Perform other advisory functions assigned to the LACC by the Commissioner.²²

The LADA specifies a process for the determination of whether species of aquatic livestock are suitable for aquaculture in Louisiana. The LACC initiates the process by making a preliminary proposal regarding the species under consideration which must be approved by a majority vote.²³ No rule or regulation may be promulgated except following a recommendation by the LACC that a species of aquatic livestock is suitable for aquaculture in the state.²⁴ The LACC then holds a public meeting equipped with all reasonably available scientific data.²⁵ If a recommendation is approved at a public meeting by a majority

¹³ *Id.*

¹⁴ LA. ADMIN. CODE Tit. 33, 9:Appendix C(I)(B).

¹⁵ LA. ADMIN. CODE Tit. 33, 9:2337(C)(1).

¹⁶ LA. ADMIN. CODE Tit. 33, 9:2337(A).

¹⁷ LA. ADMIN. CODE Tit. 33, 9:2339. "Aquaculture project" means "a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals." *Id.* A "designated project area" is "the portions of the waters of the state within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan of operation (including, but not limited to, physical confinement) which, on the basis of scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants and be harvested within a defined geographic area." *Id.*

¹⁸ La. R.S. 3:559.1-3:559.14 and 36:629(Q). Aquaculture is defined in LADA as "the producing, raising, managing, harvesting, or marketing of aquatic livestock under controlled conditions." La. R.S. 3:559.3(1). The LADA further defines "aquatic livestock" as "finfish and crawfish species produced, raised, managed, or harvested within or from a constructed impoundment in compliance with rules and regulations," but does not include species of fish excluded by La. R.S. 3:559.14. *Id.* at (2). Species previously approved for aquaculture as of July 1, 2004, will continue to be approved under the rules and regulations in effect at the time of their approval and shall be deemed aquatic livestock. The rules and regulations for these species may be amended as appropriate and in the best interest of the state. La. R.S. 3:559.7(D).

¹⁹ La. R.S. 3:559.2.

²⁰ La. R.S. 3:559.4.

²¹ *Id.*

²² La. R.S. 3:559.6.

²³ La. R.S. 3:559.7(A).

²⁴ *Id.* at (B)(1).

²⁵ *Id.* at (B)(2), (B)(3).

of the LACC, a detailed report is produced that contains specific recommendations, reasons for the recommendations, and proposed regulations.²⁶

A copy of the recommendations is then sent to the Wildlife and Fisheries Commission and to other interested state agencies and parties.²⁷ This commission considers the LACC's recommendations and determines suitability for aquaculture and, if approved, adopts rules and regulations deemed reasonable or necessary to prevent the species from having a detrimental impact on the state's natural resources.²⁸ No species can be authorized as suitable for aquaculture and deemed aquatic livestock except by rules and regulations adopted by the Wildlife and Fisheries Commission, or, if it fails to act within 90 days following submission of the LACC's report, by the Commissioner.²⁹ During this 90-day period, the Wildlife and Fisheries Commission takes one of three actions: (1) approval of the LACC's recommendations, (2) approval with modifications, or (3) rejection.³⁰ After the Wildlife and Fisheries Commission adopts rules and regulations, or if it fails to act within the 90-day period, the Commissioner may proceed with rulemaking.³¹ The law specifically does not allow the Commissioner to lessen requirements imposed by the Wildlife and Fisheries Commission or provide a waiver thereof.³²

If the Wildlife and Fisheries Commission modifies or rejects the LACC's recommendations, the Commissioner and Secretary of Wildlife and Fisheries (hereinafter referred to as the Secretary) can jointly decide whether to accept the action taken by the Wildlife and Fisheries Commission.³³ If the Commissioner and Secretary do not accept the commission's action, they can jointly present a revised recommendation to the commission, which may decide to accept it, accept it with modifications, or reject it.³⁴ The LACC or the Commissioner and Secretary may submit an unlimited number of recommendations regarding a particular species to the Wildlife and Fisheries Commission.³⁵ However, the LACC, Commissioner, or Secretary may seek judicial review of the commission's actions in the Nineteenth Judicial Circuit Court after the recommendation has been submitted to the commission more than three times.³⁶

The criteria used by the LACC, LDWF, Wildlife and Fisheries Commission, and Commissioner to determine the suitability of a species for aquaculture are:

- Whether the species is established in Louisiana;
- Whether the aquacultural production and marketing of the species is viable and sustainable;
- Whether the species can be produced, maintained, and harvested in such a manner to minimize escape into the wild;
- Any other scientific data regarding the species, including the potential to harm Louisiana's natural resources; and
- Whether LDWF can insure the enforcement of rules and regulations regarding gamefish and maintenance and preservation of the species to the same extent as existed prior to July 1, 2004.³⁷

The LADA requires every aquatic producer of a suitable species of aquatic livestock to obtain a license from LDAF for each facility owned or operated by the aquatic producer.³⁸ Each license is renewed annually.³⁹ Prior to approval and issuance of a license, LDAF and LDWF jointly inspect each facility to

²⁶ *Id.* at (B)(4).

²⁷ *Id.* at (C).

²⁸ *Id.* at (D).

²⁹ *Id.*

³⁰ *Id.* at (E).

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at (F).

³⁸ La. R.S. 3:559.8(A).

³⁹ *Id.*

determine that aquatic livestock producers are in compliance with rules and regulations.⁴⁰ Licensed aquatic producers are required to maintain and preserve records pursuant to rules and regulations.⁴¹

The Commissioner may issue a stop order prohibiting the production, harvesting, distribution, sale, application, movement, or disturbance of any aquatic livestock or products derived from aquatic livestock to prevent a violation⁴² or continued violation of LADA or its rules and regulations.⁴³ Any person aggrieved by a stop order has the right to petition for a hearing on the matter.⁴⁴ Any person who violates the LADA or its rules and regulations or any provision of a stop order is subject to a civil penalty of not more than \$5,000 for each violation and for each day of violation.⁴⁵ Violators may have their licenses or permits suspended, revoked, or placed on probation, in addition to other penalties,⁴⁶ including reimbursing the state or appropriate state agencies any costs incurred by them in destroying, removing, containing, or monitoring the release or discharge of aquatic livestock eggs, larvae, juveniles, or adults, or of their waste or unpurified water releases.⁴⁷ Moreover, action brought for a civil violation does not preclude criminal prosecution for the same violation.⁴⁸

Aquatic Plants

The Louisiana Department of Wildlife and Fisheries uses monies from the Aquatic Plant Control Fund for the purposes of aquatic weed control and eradication.⁴⁹

Coastal Zone of Louisiana

The Louisiana Department of Natural Resources (LDNR) has jurisdiction over coastal management,⁵⁰ coastal restoration,⁵¹ mineral resources,⁵² oilfield site restoration,⁵³ the fisherman's gear compensation fund,⁵⁴ and the Oyster Lease Damage Evaluation Board.⁵⁵ With respect to LDNR's Office of Mineral Resources, operating agreements relating to state-owned lands and water bottoms must follow the rules set forth by LDWF for the protection of oysters, fish, and wildlife.⁵⁶

LDNR administers the Louisiana Coastal Wetlands Conservation and Restoration Act.⁵⁷ Among other responsibilities, LDNR:

- acquires by purchase, donation, or otherwise any land needed for wetlands and coastal restoration or conservation projects and other property required for the operation of the projects;
- develops procedures to evaluate new and improved coastal restoration and preservation technologies;
- coordinates coastal restoration efforts with local governments, interest groups, and the public; and
- develops, implements, operates, maintains, and monitors coastal restoration plans and projects.⁵⁸

LDNR also administers the Louisiana Coastal Zone Management Program.⁵⁹ LDNR develops the overall state coastal management program, as well as coastal use guidelines that are developed in conjunction

⁴⁰ *Id.* at (B). See section (C) for a list of criteria the LDAF and LDWF use in inspecting facilities.

⁴¹ *Id.* at (D).

⁴² See La. R.S. 3:559.12 for a list of violations.

⁴³ La. R.S. 3:559.10(A).

⁴⁴ *Id.* at (B).

⁴⁵ La. R.S. 3:559.13(A). Note: Each day on which a violation occurs is a separate offense.

⁴⁶ *Id.* at (B).

⁴⁷ *Id.* at (C). Note: It is an affirmative defense that the release or discharge was an act of nature or sabotage if the aquatic producer held a valid license listing the facility at the time of the release or discharge. *Id.*

⁴⁸ *Id.* at (F). Note: A violation of Wildlife and Fisheries Commission rules and regulations pursuant to La. R.S. 3:559.7(D) is a class two violation, as defined by La. R.S. 56:32. *Id.*

⁴⁹ La. R.S. 56:10.1.

⁵⁰ See LA. ADMIN. CODE Tit. 43, 1:700-1:729.

⁵¹ See LA. ADMIN. CODE Tit. 43, 1:801-1:895.

⁵² See LA. ADMIN. CODE Tit. 43, 1:901-1:951.

⁵³ See LA. ADMIN. CODE Tit. 43, 1:2101-1:2107. See also LA. ADMIN. CODE Tit. 43, 1:2301-1:2307, 1:2501-1:2503, 1:2701-1:2703, 1:2901, and 1:3101.

⁵⁴ See LA. ADMIN. CODE Tit. 43, 1:1501-1:1517.

⁵⁵ See LA. ADMIN. CODE Tit. 43, 1:3701-1:3703. See also LA. ADMIN. CODE Tit. 43, 1:3901-1:3923.

⁵⁶ See LA. ADMIN. CODE Tit. 43, 2:201.

⁵⁷ See La. R.S. 49:214.1 et seq.

⁵⁸ La. R.S. 49:214.4.

with LDWF.⁶⁰ Additional jurisdiction of LDNR includes receiving and evaluating Coastal Use Permit applications, issuing Coastal Use Permits, monitoring and conducting surveillance of permitted uses to ensure that conditions of coastal use permits are satisfied; coordinating with local, state, regional, and federal agencies on coastal management matters; and providing advice and technical assistance to local governments.⁶¹ However, LDNR is not the only agency that may be involved in permitting projects in the coastal zone; permits from the U.S. Army Corps of Engineers (USACE) and LDEQ also may be required. In addition to a Coastal Use Permit, an applicant also may be required to obtain permits from USACE pursuant to Section 404 of the Clean Water Act⁶² if dredging or filling is required and Section 10 of the Rivers and Harbors Act⁶³ if the project will obstruct navigable waters. An applicant may be required to apply for a Water Quality Certification permit from LDEQ if there will be a discharge into state waters.⁶⁴

No part of the Louisiana Coastal Zone Management Program is intended to curtail the authority of any other state department or agency.⁶⁵ Permits issued pursuant to LDNR's statutory authority for the location, drilling, exploration, and production of oil, gas, or other minerals are issued in lieu of Coastal Use Permits, provided that there is coordination during the permitting process and assurances that all permitted activities are consistent with coastal use guidelines, the state program, and any affected local program.⁶⁶ Permits issued pursuant to LDWF's statutory authority for leasing, seeding, cultivating, planting, harvesting, or marking of oyster bedding grounds are issued in lieu of Coastal Use Permits, provided that LDWF coordinates with LDNR during the permitting process and ensures that all permitted activities are consistent with coastal use guidelines, the state program, and any affected local program.⁶⁷

Communicable Diseases

The Louisiana Department of Health and Hospitals (LDHH) provides for an immunization program to prevent the occurrence or spread of communicable diseases and also provides for the reporting, investigation, application, and implementation of appropriate control measures that include isolation and/or quarantine measures for all communicable diseases of public health significance.⁶⁸ LDHH also has jurisdiction over regulating the carriage and transport of persons, freight, and dead bodies brought into the state or transported in or through the state that may affect the public health.⁶⁹

Dredge and Fill Activities and Commercial Shell Dredging

Jurisdiction over dredge and fill activities in Louisiana is shared between state agencies and the USACE. The USACE retains jurisdiction over dredge and fill activities that affect navigable waters pursuant to Section 404 of the Clean Water Act.⁷⁰ Section 404 gives the USACE jurisdiction over the issuance of permits for the discharge of dredged or fill material at specified disposal sites.⁷¹ If the project that requires dredge and fill activity obstructs navigation, then a Section 10 permit from the USACE pursuant to the Rivers and Harbors Act⁷² also will be required. If a dredge and fill activity will occur in Louisiana's

⁵⁹ See La. R.S. 49:214.21 et seq.

⁶⁰ See La. R.S. 49:214.27.

⁶¹ La. R.S. 49:214.26.

⁶² See 33 U.S.C. 1344.

⁶³ See 33 U.S.C. 403. "The creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established, except on plans recommended by the Chief of Engineers and authorized by the Secretary of the Army; and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal, lake, harbor or refuge, or enclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army prior to beginning the same." *Id.*

⁶⁴ See LA. ADMIN. CODE, Tit. 33, 9:1507.

⁶⁵ La. R.S. 49:214.31.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ La. R.S. 40:4(2).

⁶⁹ La. R.S. 40:4(14).

⁷⁰ See 33 U.S.C. 1344.

⁷¹ 33 U.S.C. 1344(a).

⁷² See 33 U.S.C. 403.

coastal zone, then LDNR has jurisdiction over the state permitting process.⁷³ State permits are required in addition to federal permits.

Pursuant to the Louisiana Water Discharge Permit System (LWDPS), LDEQ has jurisdiction over discharge from commercial dredging of shell and other natural resources.⁷⁴ However, the scope of LDEQ's jurisdiction via the LWDPS program does not include permitting the discharge into state waters of dredged or fill material resulting from activities that are permitted by USACE, such as channel dredging and construction.⁷⁵

Dredge and fill activities are included in the definition of "water pollution" in Title 33 of the Louisiana Administrative Code as "substances in concentrations which tend to degrade the ... integrity of such waters [of the state]."⁷⁶ Therefore, LDEQ has some jurisdiction over dredge and fill activities pursuant to the Clean Water Act's Section 401 water quality certification authority.⁷⁷ In order to fulfill the purposes of the Louisiana Water Control Law⁷⁸ and Section 401,⁷⁹ LDEQ has an established procedure for issuing water quality certifications (WQC) for the state.⁸⁰ USACE will not issue a Section 404 permit without WQC from LDEQ. One of the application criteria for WQC is "the nature of the activity to be conducted by the applicant, including estimates of volume of excavation for dredge and fill activities."⁸¹

Environmental Quality

The Louisiana Department of Environmental Quality generally has jurisdiction over matters "affecting the regulation of the environment within the state, including but not limited to the regulation of air quality, noise pollution control, water pollution control, the regulation of solid waste disposal, the protection and preservation of the scenic rivers and streams of the state, the regulation and control of radiation, the management of hazardous waste, and the regulation of those programs which encourage, assist, and result in the reduction of wastes generated within Louisiana."⁸² To ensure compliance with state environmental laws and regulations and to protect the environment and the public health, LDEQ may conduct inspections of all facilities subject to state environmental quality laws and regulations.⁸³ Furthermore, all permits, licenses, registrations, variances, and compliance schedules required by the Louisiana Environmental Quality Act⁸⁴ are issued by LDEQ.⁸⁵ It is also the purview of LDEQ to establish enforcement procedures and policies to ensure compliance and address violations of state environmental quality regulations.⁸⁶

LDEQ administers the Louisiana Water Control Law⁸⁷ and the Louisiana Pollutant Discharge Elimination System (LPDES). The LPDES incorporates portions of the Louisiana Environmental Quality Act⁸⁸ and the Louisiana Water Control Law and all regulations promulgated under their authority which are deemed equivalent to the National Pollutant Discharge Elimination System (NPDES) under the Clean Water Act

⁷³ See La. R.S. 49:214.30.

⁷⁴ See LA. ADMIN. CODE Tit. 33, 9:301(C)(7).

⁷⁵ LA. ADMIN. CODE Tit. 33, 9:301(D)(7).

⁷⁶ LA. ADMIN. CODE Tit. 33, 9:107.

⁷⁷ See 33 U.S.C. 1341. "Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate ..." *Id.*

⁷⁸ See La. R.S. 30:2071 et seq.

⁷⁹ See 33 U.S.C. 1251 et seq.

⁸⁰ See LA. ADMIN. CODE, Tit. 33, 9:1507.

⁸¹ *Id.*

⁸² La. R.S. 30:2011(A)(1). Note: However, LDEQ's jurisdiction over the regulation of noise pollution control does not prevent local governments from adopting local noise pollution control ordinances that are at least as strict as state regulations regarding noise pollution. La. R.S. 30:2011(A)(2).

⁸³ See La. R.S. 30:2012. Note: The purpose of such inspections conducted by LDEQ is to determine whether certain conditions exist that would adversely affect the environment and the public health. These conditions are listed in La. R.S. 30:2012.

⁸⁴ See La. R.S. 30:2001 et seq.

⁸⁵ See La. R.S. 30:2014(A)(1).

⁸⁶ See La. R.S. 30:2050.1.

⁸⁷ See La. R.S. 30:2071 et seq.

⁸⁸ See La. R.S. 30:2001 et seq.

(CWA), and for which Louisiana has delegated authority.⁸⁹ LDEQ's authority under the LPDES includes issuance of all permits provided for under Sections 402 and 405 of the CWA as well as the general permits program, the storm water discharge program, the pretreatment program, the sewage sludge program, and the Louisiana Water Discharge Permit System (LWDPS) process for discharging or allowing the discharge of any pollutants into the waters of the state.⁹⁰ Generally, LDEQ's jurisdiction covers any activity that results in the discharge of any substance into the waters of the state with or without the required permit, variance, or license.⁹¹ LDEQ is also responsible for establishing, maintaining, and enforcing surface water quality standards for waters of the state.⁹² This is accomplished through wasteload allocation and permit processes for the development of effluent limitations for point source discharges and to form the basis for implementation of best management practices to control nonpoint sources of water pollution.⁹³ LDEQ is responsible for regulating facilities and discharges within the scope of the NPDES⁹⁴ for point source pollution into the waters of the state.⁹⁵

LWDPS permits from LDEQ are also required for discharges into aquaculture projects⁹⁶ and for silviculture point sources.⁹⁷ LDEQ also has the authority to investigate violations of permitted discharges⁹⁸ and to commence enforcement proceedings for such violations.⁹⁹ LDEQ sets effluent standards to control wastewater discharges into the waters of the state,¹⁰⁰ including but not limited to exploration for and production of oil and natural gas,¹⁰¹ secondary treatment for sanitary sewage,¹⁰² and chlorine-bleaching pulp and paper mill dischargers.¹⁰³

LDEQ administers the Louisiana Solid Waste Management and Resource Recovery Law.¹⁰⁴ One of the duties of LDEQ with regard to this law is to control and regulate pollution of the environment caused by solid waste disposal practices.¹⁰⁵ To this end, LDEQ adopts and promulgates "rules, regulations, and standards for the transportation, processing, resource recovery, and disposal of solid wastes consistent with the general solid waste management plan adopted by the department. Such rules and regulations shall include but not be limited to the disposal site location, construction, operation, compliance deadlines, citing of stations for the off-loading and transloading of treated solid waste and sewage sludge destined for disposal, and maintenance of the disposal process ..."¹⁰⁶

LDEQ administers the Solid Waste Recycling and Reduction Law.¹⁰⁷ The powers and duties of LDEQ in administering the law include, but are not limited to:

- providing technical assistance to parishes, municipalities, and other persons, and coordinating with appropriate federal agencies and private organizations;

⁸⁹ La. R.S. 30:2073(1).

⁹⁰ La. R.S. 30:2073(1).

⁹¹ See La. R.S. 30:2075.

⁹² See LA. ADMIN. CODE Tit. 33, 9:1101. See also LA. ADMIN. CODE Tit. 33, 9:1107.

⁹³ See LA. ADMIN. CODE Tit. 33, 9:1101(D).

⁹⁴ See LA. ADMIN. CODE Tit. 33, 9:2301(B).

⁹⁵ See LA. ADMIN. CODE Tit. 33, 9:2301. See also LA. ADMIN. CODE Tit. 33, 9:2311, 9:2403-9:2505, 9:2745-9:2753 (Ocean Discharge Criteria), and 9:2761-9:2781.

⁹⁶ See LA. ADMIN. CODE Tit. 33, 9:301(L).

⁹⁷ See LA. ADMIN. CODE Tit. 33, 9:301(M).

⁹⁸ See LA. ADMIN. CODE Tit. 33, 9:503.

⁹⁹ See LA. ADMIN. CODE Tit. 33, 9:505, 9:507.

¹⁰⁰ See LA. ADMIN. CODE Tit. 33, 9:701 et seq.

¹⁰¹ See LA. ADMIN. CODE Tit. 33, 9:708.

¹⁰² See LA. ADMIN. CODE Tit. 33, 7:711.

¹⁰³ See LA. ADMIN. CODE Tit. 33, 9:713.

¹⁰⁴ See La. R.S. 30:2151 et seq. "Solid waste" means "any garbage, refuse, sludge from a wastewater treatment plant, water supply plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities ..." La. R.S. 30:2153. However, this definition "does not include or mean solid or dissolved material from domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under R.S. 30:2074, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), or hazardous waste subject to permits under R.S. 30:2171 et seq." *Id.*

¹⁰⁵ See La. R.S. 30:2154.

¹⁰⁶ *Id.*

¹⁰⁷ See La. R.S. 30:2411 et seq.

- adopting rules and regulations to encourage reduction, recycling, and resource recovery of solid waste as a source of raw materials to be utilized in the production of goods in the state;
- assisting and encouraging, to the maximum extent possible, development of industries and commercial enterprises which are based upon resource recovery, recycling, and reuse of solid waste within the state; and
- serving as an information source of recycling businesses operating in the state and assisting in matching recovered materials with markets. Information that is compiled is made available to local governments to assist with their solid waste management activities.¹⁰⁸

There are several areas related to environmental quality over which LDEQ has jurisdiction that, although they are not directly related to invasive species, nevertheless may exemplify how Louisiana might choose to structure rapid response to aquatic invasive species. Refer to Appendix C.3 for detailed information regarding LDEQ's jurisdiction over the administration of Louisiana's Air Quality Program, emergency response to the release of pollutants, Hazardous Waste Control Law, Louisiana Inactive and Abandoned Hazardous Waste Site Law, and Louisiana Waste Reduction Law. Appendix C.3 also discusses the Hazardous Materials Information, Development, Preparedness, and Response Act that is administered by the Department of Public Safety and the Oil Spill Prevention and Response Act that is administered by the Office of the Oil Spill Coordinator within the Governor's Office.

Fish and Seafood

Most issues related to fish and commercial and recreational fishing fall under the jurisdiction of the Louisiana Department of Wildlife and Fisheries. Other jurisdiction belongs to the Department of Agriculture and Forestry. LDWF's jurisdiction includes species of freshwater and saltwater fish. The agency has the authority to regulate or prohibit by rule the possession, sale, or transportation of any fish into Louisiana.¹⁰⁹ LDWF has jurisdiction over certain exotic fish species that may not be possessed, sold, or transported without permission from the agency, such as carnero catfish, common carp, goldfish, and all species of tilapia.¹¹⁰ LDWF also has jurisdiction over piranha,¹¹¹ Rio Grande tetra,¹¹² and listed prohibited shark species (e.g., basking shark, white shark, and sand tiger shark).¹¹³ In addition, LDWF has jurisdiction over the transfer of sharks between vessels in state or federal waters.¹¹⁴

LDWF has jurisdiction over freshwater game fish, saltwater game fish, and game fish fingerlings,¹¹⁵ and the agency also has jurisdiction over the methods of taking freshwater and saltwater fish.¹¹⁶ Additionally, the Wildlife and Fisheries Commission sets daily take, possession, and size limits for freshwater game fish¹¹⁷ and saltwater finfish caught recreationally in Louisiana territorial waters.¹¹⁸ LDWF is also responsible for commercial taking of saltwater finfish species, including but not limited to black drum, sheepshead and flounder.¹¹⁹ The agency sets size and possession limits for commercial fish.¹²⁰ Other commercial fish species of which LDWF regulates the harvest include but are not limited to paddlefish,¹²¹ sturgeon,¹²² king and Spanish Mackerel,¹²³ cobia,¹²⁴ red snapper,¹²⁵ greater amberjack,¹²⁶ jewfish,¹²⁷

¹⁰⁸ La. R.S. 30:2413.

¹⁰⁹ La. R.S. 30:319.1.

¹¹⁰ La. R.S. 56:319(A).

¹¹¹ See La. R.S. 56:319(D).

¹¹² *Id.*

¹¹³ See LA. ADMIN. CODE Tit. 76, 7:357(K).

¹¹⁴ LA. ADMIN. CODE Tit. 76, 7:357(L).

¹¹⁵ See La. R.S. 56:327(A)(1).

¹¹⁶ See La. R.S. 56:320.

¹¹⁷ See La. R.S. 56:325.

¹¹⁸ See La. R.S. 56:325.1.

¹¹⁹ See La. R.S. 56:325.4.

¹²⁰ See La. R.S. 56:326.

¹²¹ See LA. ADMIN. CODE Tit. 76, 7:137.

¹²² See LA. ADMIN. CODE Tit. 76, 7:145.

¹²³ See LA. ADMIN. CODE Tit. 76, 7:323, 7:327.

¹²⁴ See *id.*

¹²⁵ See LA. ADMIN. CODE Tit. 76, 7:335.

¹²⁶ See *id.*

¹²⁷ See *id.*

Nassau grouper,¹²⁸ tuna,¹²⁹ and red drum.¹³⁰ LDWF also regulates the Experimental Fisheries Program.¹³¹

LDWF also has jurisdiction over the mariculture industry.¹³² LDWF maintains jurisdiction over shipment of any saltwater game fish.¹³³ The Wildlife and Fisheries Commission may issue permits to Louisiana residents for raising all types of bass, crappie, and bream in the state.¹³⁴ Furthermore, LDWF has jurisdiction over the import, transport, and possession of live triploid grass carp, as well as over triploid grass carp fingerlings under six inches in total length. The agency has jurisdiction over enforcement of the prohibition against releasing live triploid grass carp into Louisiana waters without written approval from LDWF.¹³⁵

Specifically regarding tilapia, LDWF has authority over the issuance of permits for the import, export, transport, and possession to the transfer and sale of live tilapia.¹³⁶ LDWF also has jurisdiction over all escape incidents and may implement or require the implementation of whatever measures deemed necessary to contain, recapture, or kill the escaped tilapia.¹³⁷ Furthermore, LDWF has jurisdiction over the rules for tilapia culture, live holding facilities, and live holding systems.¹³⁸

LDWF has jurisdiction over catfish that are shipped into Louisiana.¹³⁹ Catfish that will be used for restocking purposes may be shipped into Louisiana by a person, firm, or corporation that possesses all the necessary wholesale licenses and a certification of inspection issued by the state or country of origin.¹⁴⁰ The certification of inspection must state that the catfish are free from contagious or infectious diseases based upon actual inspection of the catfish within 48 hours prior to the date of shipment.¹⁴¹ LDWF also has jurisdiction over labeling of catfish packaging, whether the catfish are farm-raised or naturally produced, and the origin of the fish.¹⁴² LDWF requires all packers or proprietors of packaged, processed products register each separate and distinct product annually and to supply LDWF with a sample of each product upon request.¹⁴³

LDWF has jurisdiction over the raising and taking of oysters, fish, and seafood for sale through its certified aquaculture program or issuance of mariculture permits.¹⁴⁴ LDWF also regulates the oyster industry via licensing for oyster harvesting, transporting of oysters from the waters of Louisiana, and leasing of bedding grounds.¹⁴⁵

Jurisdiction over the shrimp fishery and shrimp industry exclusively belongs to LDWF, from the taking and possession of shrimp to the transportation thereof.¹⁴⁶ LDWF also regulates the saltwater shrimp seasons and the taking and method of taking bait shrimp.¹⁴⁷

LDWF regulates the taking of and method of taking crabs, the release of crabs in the berry stage, and promulgation and enforcement of crab trap rules.¹⁴⁸ LDWF also regulates the harvest and sale of crabs

¹²⁸ See *id.*

¹²⁹ See LA. ADMIN. CODE Tit. 76, 7:361.

¹³⁰ See LA. ADMIN. CODE Tit. 76, 7:363.

¹³¹ See LA. ADMIN. CODE Tit. 76, 7:701 et seq.

¹³² See La. R.S. 56:579.1.

¹³³ See La. R.S. 56:327(A)(1)(c).

¹³⁴ See La. R.S. 56:327(A)(2).

¹³⁵ See LA. ADMIN. CODE Tit. 76, 7:901(3)(a). See also LA. ADMIN. CODE Tit. 76, 7:901(6)(b), 7:901(6)(d).

¹³⁶ See LA. ADMIN. CODE Tit. 76, 7:903(B).

¹³⁷ See LA. ADMIN. CODE Tit. 76, 7:903(H)(11).

¹³⁸ See LA. ADMIN. CODE Tit. 76, 7:903(D). See also LA. ADMIN. CODE Tit. 76, 7:903(F).

¹³⁹ La. R.S. 3:2356(B).

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² La. R.S. 56:578.11.

¹⁴³ La. R.S. 40:627.

¹⁴⁴ La. R.S. 56:327(B). See also La. R.S. 56:579.1.

¹⁴⁵ La. R.S. 56:422.

¹⁴⁶ See La. R.S. 56:493.

¹⁴⁷ See La. R.S. 56:497.

¹⁴⁸ See La. R.S. 56:332.

produced in private, artificial, earthen reservoirs and the transport of crabs from commercial fish farm producers on the public roads and highways of Louisiana, including any and all equipment (except electric fish shocking devices), necessary for the harvest of domesticated fish produced in privately owned waters.¹⁴⁹ Also, LDWF regulates the methods, permits, and fees regarding the harvesting of freshwater mussels.¹⁵⁰

LDWF regulates eel taken for commercial purposes and for recreational purposes using any legal recreational gear, the taking of eel using eel pots, and authorizes the sale of eel if the holder possesses a valid commercial fishing license in addition to any other applicable commercial licenses.¹⁵¹

LDWF regulates mullet taken commercially from saltwater areas of the state. LDWF also provides for zones, permits, fees, and other provisions necessary for regulating the commercial taking of mullet, as well as enforcing limitations on the saltwater areas from where mullet may be taken.¹⁵² LDWF also regulates the commercial taking of mullet from freshwater areas of the state.¹⁵³ Specifically, LDWF provides rules for zones, permits, fees, daily take and possession limits, and other necessary provisions to the commercial taking of mullet.¹⁵⁴

LDHH and LDAF share jurisdiction over the inspection of seafood. Inspection of seafood is pursuant to Louisiana's Public Health-Sanitary Code and LDAF's Seafood Inspection Program.¹⁵⁵ Inspection includes a recommendation for testing the environment, including the water source, to the appropriate agency only when evidence of contamination, adulteration, or spoilage that may harm the health of humans or animals is indicated.¹⁵⁶

LDHH has jurisdiction over molluscan shellfish sanitation. LDHH classifies all state waters that have the potential to produce molluscan shellfish. Molluscan shellfish may be harvested only from growing areas that are approved by the State Health Officer. LDHH is authorized to immediately close and prohibit the harvest of any molluscan shellfish growing in an area adversely affected by health dangers, and is required to immediately reopen molluscan shellfish growing areas when the department has determined that the health dangers are no longer a threat to public health.¹⁵⁷ Harvesting molluscan shellfish from areas closed or not approved by the State Health Officer constitutes a violation of La. R.S. 56:424(E).

In order for LDHH to monitor molluscan shellfish-related diseases for verification and certification, the agency may collect from all water bottoms, both public and private, shellfish samples for bacteriological, chemical, and radiological analysis.¹⁵⁸ LDHH is required to collect oyster samples in Calcasieu Lake for the purpose of determining chemical, radiological, and metallic analysis 45 days prior to the opening of the oyster season as fixed by the commission in accordance with La. R.S. 56:435.1 or La. R.S. 56:435.2.

Food-borne and Vector-borne Diseases

The Louisiana Department of Health and Hospitals has jurisdiction over food-borne and vector-borne diseases. LDHH protects the public from food-borne diseases by requiring that all food products are produced from a safe and sanitary source, including but not limited to marine and freshwater seafood and animal products.¹⁵⁹ All food products must be prepared, processed, packaged, handled, stored, and transported in a sanitary manner that will prevent contamination, spoilage, or adulteration.¹⁶⁰ LDHH also supervises, inspects, and issues sanitation permits for water supplies, slaughterhouses, cold storage

¹⁴⁹ La. R.S. 56:551.

¹⁵⁰ See La. R.S. 56:450. Note: A LDWF regulation labels zebra mussels as an "introduced nuisance aquatic species" and "strongly encourages actions to prevent the spread of zebra mussels." LA. ADMIN. CODE Tit. 76, 7:161(D)(5).

¹⁵¹ See La. R.S. 56:332.1.

¹⁵² See La. R.S. 56:333. See also La. R.S. 56:322(B).

¹⁵³ See La. R.S. 56:333.1.

¹⁵⁴ See *id.*

¹⁵⁵ See La. R.S. 40:4(1)(b).

¹⁵⁶ See *id.*

¹⁵⁷ La. R.S. 40:5.3.

¹⁵⁸ La. R.S. 40:5.3(H).

¹⁵⁹ La. R.S. 40:4(1)(a).

¹⁶⁰ *Id.*

plants, all places of public accommodation, and the handling and control of hygienic conditions with respect to all food products.¹⁶¹ LDHH also has jurisdiction over sanitary inspection of meat, milk, and other products.¹⁶² Furthermore, LDHH monitors and controls disease vectors at levels sufficient to prevent or abate outbreaks of diseases.¹⁶³

Imported Wild Birds and Animals

The Louisiana Department of Wildlife and Fisheries has jurisdiction over the catch, snare, and pursuit of any wild animal or bird imported into Louisiana by the federal government or by any person under the supervision and consent of the Wildlife and Fisheries Commission for the purpose of experimentation or propagation.¹⁶⁴ LDWF also has jurisdiction over the take of any wild bird or wild quadruped imported into Louisiana by the state or federal government for the purpose of experimentation or propagation.¹⁶⁵

LDAF regulates the licensing process regarding the raising, selling, or raising and selling of imported white tail deer, farm-raised white tail deer and exotic deer, antelope, and elk for commercial purposes on breeding farms or propagating preserves that are owned or leased by the licensee.¹⁶⁶

Livestock

The Louisiana Department of Agriculture and Forestry has general jurisdiction over livestock, including the unlawful transportation of diseased animals or livestock, or adulterated meat.¹⁶⁷ In this context, "livestock" means "any animal bred, kept, maintained, raised, or used for show, profit, or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market."¹⁶⁸

LDAF also regulates the licensing of pet turtle farmers and the monitoring and inspection of pet turtles.¹⁶⁹ LDAF regulates the quarantine of pet turtles or pet turtle eggs when laboratory analysis indicates the presence of bacteria harmful to humans or other pet turtles, such as Salmonella.¹⁷⁰ LDAF also regulates removal from the premises of licensed pet turtle farmers and disposal of pet turtles and turtle eggs that have been infected with bacteria harmful to humans or other pet turtles.¹⁷¹

LDAF's Livestock Sanitary Board deals with all contagious and infectious diseases of animals.¹⁷²

Microorganisms in Food

The Louisiana Department of Health and Hospitals has the power to investigate whether or not the distribution of any class of food may be a threat to health by reason of contamination with microorganisms during the manufacture, processing, or packing thereof.¹⁷³ If such a threat cannot be adequately determined after the articles have entered state commerce, LDHH may, under these conditions only, govern the conditions of manufacture, processing, or packing for a temporary period of time to protect the public health.¹⁷⁴

Natural and Scenic Rivers System

The Louisiana Department of Wildlife and Fisheries administers Louisiana's Natural and Scenic Rivers System in order to preserve, protect, develop, reclaim, and enhance the wilderness qualities, scenic beauty, and ecological regime of certain free-flowing streams or segments thereof.¹⁷⁵

¹⁶¹ La. R.S. 40:5(5).

¹⁶² See La. R.S. 40:5(15).

¹⁶³ See La. R.S. 40:4(9).

¹⁶⁴ La. R.S. 56:762.

¹⁶⁵ La. R.S. 56:113.

¹⁶⁶ La. R.S. 3:3102.

¹⁶⁷ La. R.S. 3:2097.

¹⁶⁸ La. R.S. 3:2097(3).

¹⁶⁹ See La. R.S. 3:2358.7(C), 3:2358.9.

¹⁷⁰ La. R.S. 3:2358.11(A).

¹⁷¹ La. R.S. 3:2358.12(B).

¹⁷² See LA. ADMIN. CODE Tit. 7, 21:121.

¹⁷³ La. R.S. 40:612.

¹⁷⁴ *Id.*

¹⁷⁵ La. R.S. 56:1841. See also LA. ADMIN. CODE Tit. 76, 9:101 *et seq.*

Noxious Aquatic Plants

The Louisiana Department of Wildlife and Fisheries has jurisdiction over listed noxious aquatic plants.¹⁷⁶ La. R.S. 56:328(B) prohibits anyone at any time from knowingly importing or causing the import of listed aquatic plant species or causing them to be transported into Louisiana from any other state or country without first obtaining a written permit from the Wildlife and Fisheries Commission. However, the Wildlife and Fisheries Commission may issue permits for the importation of listed noxious aquatic plants for the purpose of scientific investigation.¹⁷⁷ There is a gap in this statute that should be noted. Although La. R.S. 56:328 prohibits the importation of listed species, nothing in the law prohibits their sale once they are in Louisiana.

Noxious Weeds

The Louisiana Department of Agriculture and Forestry regulates terrestrial plants that the agency designates as "noxious weeds," particularly as the agency's jurisdiction relates to the enforcement of Louisiana's Seed Law, and places limitations on the seeds of designated noxious weeds.¹⁷⁸

Nurseries

The Louisiana Department of Agriculture and Forestry has jurisdiction over the annual certification and permitting system of nursery stock¹⁷⁹ and their quarantine.¹⁸⁰ LDAF requires that purchasers in Louisiana of out-of-state nursery stock provide proof of origin of citrus trees in their possession.¹⁸¹

Pesticides

If the Louisiana Department of Agriculture and Forestry finds that a foreign pest or a pest not previously known to be established in Louisiana threatens to become established in the state, then LDAF may apply to the U.S. Environmental Protection Agency for a quarantine or public health exemption to allow the application of a pesticide.¹⁸² A crisis exemption may be issued in accordance with federal regulations for the use of an unregistered pesticide if an unpredictable outbreak of pests in Louisiana is occurring and there is no readily available pesticide registered for the particular use in order to eradicate or control the pest.¹⁸³

Pink Bollworm

Cotton plants, plant products, parts of cotton plants and plant products, and host materials for the pink bollworm are subject to the Louisiana Department of Agriculture and Forestry's quarantine regulations.¹⁸⁴ LDAF requires a permit to move untreated and/or unmanufactured articles within a regulated area, with exemptions.¹⁸⁵ Certification from LDAF is also required to move regulated articles from a regulated area to a pest-free area.¹⁸⁶

Plant Pests and Diseases and Crop and Fruit Diseases

The Louisiana Department of Agriculture and Forestry generally has jurisdiction over plant pests and diseases. LDAF also has jurisdiction over all crop and fruit diseases and contagious and infectious crop and fruit diseases.¹⁸⁷ LDAF maintains a list of materials declared to be hosts for plant pests and diseases.¹⁸⁸ Among LDAF's responsibilities regarding plant pests and diseases are:

- inspecting any premises and/or property if there is reason to believe that a plant pest or diseases subject to regulation may be present in an area of the state,¹⁸⁹

¹⁷⁶ An "aquatic plant" is a plant that is or can be grown, submerged, or partly submerged or floating in water. La. R.S. 56:328(B) contains a complete list of noxious aquatic plants to which this statute applies.

¹⁷⁷ La. R.S. 56:328(C).

¹⁷⁸ See LA. ADMIN. CODE Tit. 7, 13:145.

¹⁷⁹ See LA. ADMIN. CODE Tit. 7, 15:126.

¹⁸⁰ See LA. ADMIN. CODE Tit. 7, 15:125.

¹⁸¹ LA. ADMIN. CODE Tit. 7, 15:127(A).

¹⁸² LA. ADMIN. CODE Tit. 7, 23:117(A)(3).

¹⁸³ *Id.*

¹⁸⁴ See LA. ADMIN. CODE Tit. 7, 15:149.

¹⁸⁵ See LA. ADMIN. CODE Tit. 7, 15:153.

¹⁸⁶ See *id.*

¹⁸⁷ See La. R.S. 3:1652.

¹⁸⁸ See LA. ADMIN. CODE Tit. 7, 15:123.

¹⁸⁹ LA. ADMIN. CODE Tit. 7, 15:105(A).

- establishing inspecting stations or utilizing existing inspection stations and inspecting any vehicle known or suspecting to be transporting any materials known to be hosts for plant pests and diseases if LDAH has reason to believe or suspect that any plant pest or disease has been or may be transported into Louisiana or transported between two or more locations in Louisiana;¹⁹⁰
- quarantining properties or premises when inspection of these properties or premises indicates the presence of any plant pest or disease;¹⁹¹ and
- regulating a system of reciprocal quarantines or embargoes between Louisiana and other states, territories, and foreign countries.¹⁹²

Public and Private Markets

Municipal corporations may regulate the location, inspection, and operation of all public markets.¹⁹³ This power is subject to the superior right of inspection of the Louisiana Department of Health and Hospitals.¹⁹⁴ LDHH regulates the inspection and operation of all private markets outside of the market zones.¹⁹⁵ The agency provides regulations for the operation of these private markets, including rules affecting their cleanliness and the wholesomeness of the goods offered for sale therein.¹⁹⁶

Ratites

The Louisiana Department of Agriculture and Forestry has jurisdiction over ratites¹⁹⁷ shipped into Louisiana.¹⁹⁸ In particular, LDAH has the power to inspect ratites shipped into Louisiana.¹⁹⁹ The state veterinarian has the power to deal with all contagious and infectious diseases of ratites and all other pests of ratites, and he or she may do and perform acts necessary to control, eradicate, or prevent their introduction, spread, or dissemination.²⁰⁰

Seeds

The Louisiana Department of Agriculture and Forestry has jurisdiction over prohibited and restricted noxious weed seeds.²⁰¹ LDAH's Seed Commission makes rules and regulations governing the methods of sampling, inspecting, and making analysis tests and examinations of all seeds and other propagating stock.²⁰² The Seed Commission also makes rules and regulations for governing the conditions for growing, harvesting, processing, preparing for market, labeling, distributing, and marketing seeds.²⁰³ The Seed Commission is responsible for making rules and regulations for testing agricultural, vegetable, or flower seeds for sale, offered for sale, for transport, or for distribution.²⁰⁴ The Seed Commission also has jurisdiction over the labeling of agricultural, vegetable, and flower seeds.²⁰⁵ Furthermore, the Seed Commission has jurisdiction over the sale, offer for sale, transport, or distribution of agricultural seeds containing noxious weed seeds.²⁰⁶

Sweet Potato Weevil and Boll Weevil

Sweet potato weevil and boll weevil relate to the aquatic invasive species discussion because many insects can enter the state by an aquatic pathway. Discussion of the measures of control Louisiana employs over these particular insects may be a useful in future discussion over the measures of control

¹⁹⁰ LA. ADMIN. CODE Tit. 7, 15:105(B).

¹⁹¹ LA. ADMIN. CODE Tit.7, 15:197(A).

¹⁹² La. R.S. 3:1771.

¹⁹³ La. R.S. 40:1241.

¹⁹⁴ *Id.*

¹⁹⁵ La. R.S. 40:1242.

¹⁹⁶ *Id.* See also LA. ADMIN. CODE Tit. 51, 6:101 et seq.

¹⁹⁷ A "ratite" is a flightless bird of the Order *Ratitae* with a flat chest bone, including but not limited to ostrich (*Struthio camelus*), rhea (*Rhea americana*), emu (*Dromaius novaehollandiae*), and cassowary (*Casuaris*). La. R.S. 3:3112. Domestic farm-raised ratites are considered livestock if they are identified and maintained for the commercial purpose of producing meat, hides, feathers, oil, or progeny. *Id.*

¹⁹⁸ See La. R.S. 3:3116.

¹⁹⁹ See *id.*

²⁰⁰ La. R.S. 3:3114.

²⁰¹ See LA. ADMIN. CODE Tit. 7, 13:101. See also LA. ADMIN. CODE Tit.7, 13:109.

²⁰² La. R.S. 3:1433(A)(1)(a).

²⁰³ La. R.S. 3:1433(A)(1)(c).

²⁰⁴ La. R.S. 3:1444(1).

²⁰⁵ La. R.S. 3:1436(1)(a) and (c). See also La. R.S. 3:1444(2).

²⁰⁶ La. R.S. 3:1444(4).

Louisiana may use against other insects that may enter the state through an aquatic pathway. The Department of Agriculture and Forestry has jurisdiction over the sweet potato weevil.²⁰⁷ LDAF also has jurisdiction over the boll weevil via the Boll Weevil Eradication Commission.²⁰⁸ Not only can LDAF inspect possible boll weevil infestations and carry out suppression or eradication activities,²⁰⁹ LDAF also is authorized to cooperate with any agency of the federal government, any state, any other agency in Louisiana or the region, or with any person engaged in the growing, processing, marketing, and handling of cotton so the agency can control and suppress the boll weevil.²¹⁰ LDAF also has the authority to "stop any person and inspect any 'regulated article'²¹¹ or conveyance moving into, within, or from Louisiana when LDAF has reason to believe the regulated article or means of conveyance is infested with boll weevil."²¹² Furthermore, LDAF has the authority to issue a stop order on, seize, or treat any regulated article infested with boll weevil moving in violation of laws or regulations and to destroy or otherwise dispose of any infested cotton when it is necessary.²¹³ LDAF may also issue certificates for articles that originated in noninfested premises in an eradication zone and otherwise have not been exposed to infestation.²¹⁴ Furthermore, LDAF may issue permits for movement of noncertified regulated articles, which allows the movement of articles into, within, or from Louisiana when the agency has determined that such movement will not result in the spread of boll weevil.²¹⁵ LDAF has the authority to issue quarantine orders to affected parties when necessary.²¹⁶ Orders shall be issued to prevent the movement, disturbance, or noncontainment of an actual or suspected boll weevil infestation or the prevention thereof.²¹⁷

Wildlife Refuges, Wildlife Management Areas, and Public Hunting Grounds

The Louisiana Department of Wildlife and Fisheries has jurisdiction over wild animals and birds on wildlife refuges, wildlife management areas, and public hunting grounds.²¹⁸

Wildlife

The Department of Wildlife and Fisheries has jurisdiction over wild birds, wild quadrupeds, and fish and other aquatic life.²¹⁹ LDWF also has jurisdiction over the beds and bottoms of rivers, streams, bayous, lagoons, lakes, bays, sounds, and inlets bordering on or connecting with the Gulf of Mexico within the territory or jurisdiction of the state.²²⁰ This jurisdiction includes all oysters and other shellfish and their parts grown thereon, either naturally or cultivated, and all oysters in the shells after they are caught or taken.²²¹ LDWF also has jurisdiction over the killing, taking, trapping, and transportation of animals killed and administers licenses and permits for the possession and taking of wildlife.²²² LDWF also administers the Deer Management Assistance Program²²³ and the Coastwide Nutria Control Program.²²⁴

²⁰⁷ See LA. ADMIN. CODE Tit. 7, 15:133.

²⁰⁸ See La. R.S. 3:1604. See also La. R.S. 3:1602.

²⁰⁹ See La. R.S. 3:1606(A).

²¹⁰ La. R.S. 3:1605.

²¹¹ See LA. ADMIN. CODE Tit. 7, 15:305. Note: This section contains a list of regulated articles.

²¹² LA. ADMIN. CODE Tit. 7, 15:311.

²¹³ *Id.*

²¹⁴ LA. ADMIN. CODE Tit. 7, 15:307(B).

²¹⁵ LA. ADMIN. CODE Tit. 7, 15:307(B)(2).

²¹⁶ LA. ADMIN. CODE Tit. 7, 15:315.

²¹⁷ *Id.*

²¹⁸ La. R.S. 56:761.

²¹⁹ See La. R.S. 56:3.

²²⁰ *Id.*

²²¹ *Id.*

²²² See, e.g., La. R.S. 56:172, 56:173, and 56:259 and LA. ADMIN. CODE Tit. 76, 19:101 et seq.

²²³ See LA. ADMIN. CODE Tit. 76, 5:111 et seq.

²²⁴ See La. R.S. 56:281. See also LA. ADMIN. CODE Tit. 76, 5:123.