

# All About Water

Lauren Godshall

CURRY & FRIEND PLC

New Orleans | Covington

# Recent Regulatory, Legislative, and Legal Updates



# Water Regulation and Enforcement

## **On EPA's Radar this Year: Your Facility's SPCC Plan**

The Spill Prevention Control and Countermeasure (SPCC) regulations are a part of the Clean Water Act. SPCC regulations require onshore production and bulk storage facilities to provide oil spill prevention, control, and countermeasures to prevent oil discharges.

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Does your facility need an SPCC plan?  
If you have one, are you in compliance?

# Water Regulation and Enforcement

## AUGUST, 2012 ALONE

St. Bernard Parish oil production facilities fined \$29,400 for SPCC violations

- Failure to conduct adequate self-inspections
- Failure to provide adequate documentation of SPCC training
- Failure to provide adequate secondary containment and equipment

Plaquemines Parish oil production facility fined \$7,055 for SPCC violations

- Failure to conduct adequate self-inspections
- Failure of SPCC plan to discuss specific flowline high pressure devices and well shut-in valves
- Failure of SPCC plan to anticipate environmental stresses on piping

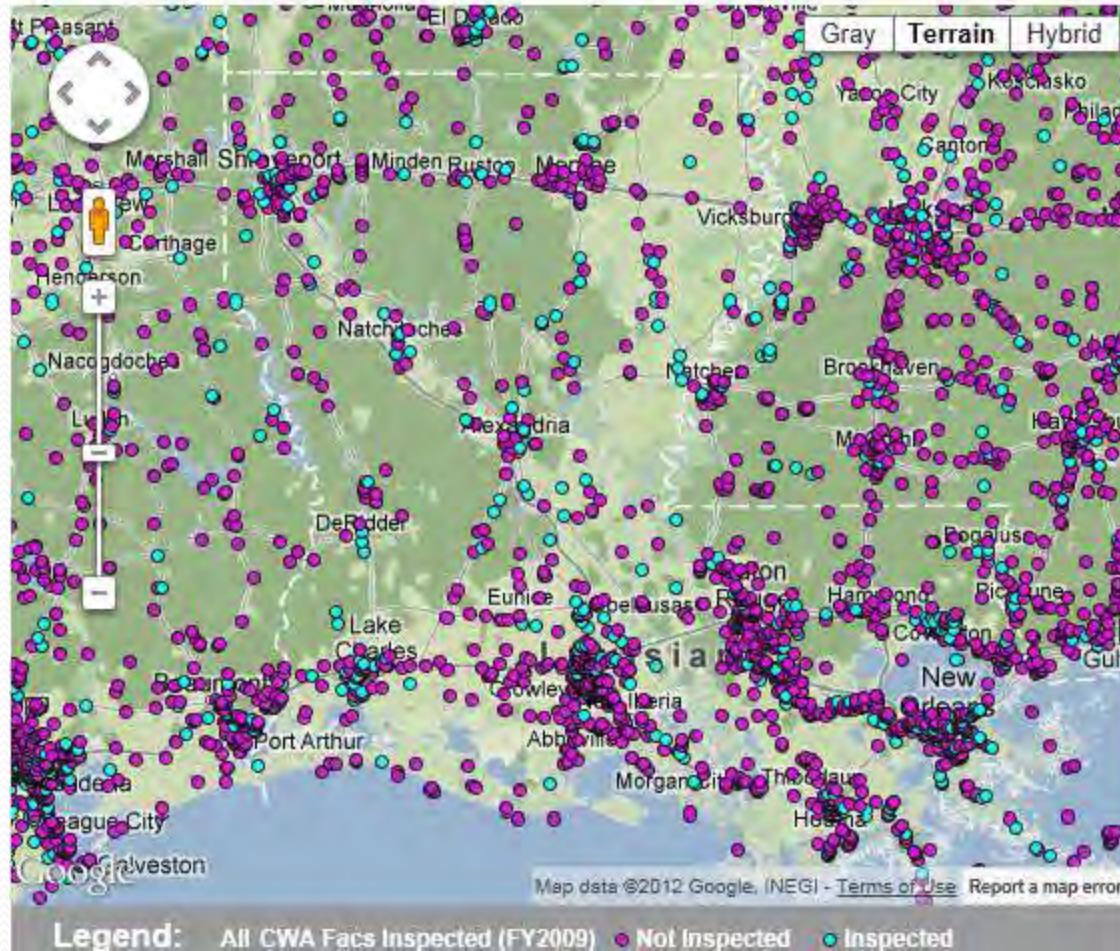
Cameron Parish storage terminal fined \$14,400 for SPCC violations

- Failure of SPCC plan to provide adequate schedule for tank integrity testing
- Failure of facility diagram to list all oil tankage
- Failure to properly manage retained stormwater

# **Water Regulation and Enforcement**

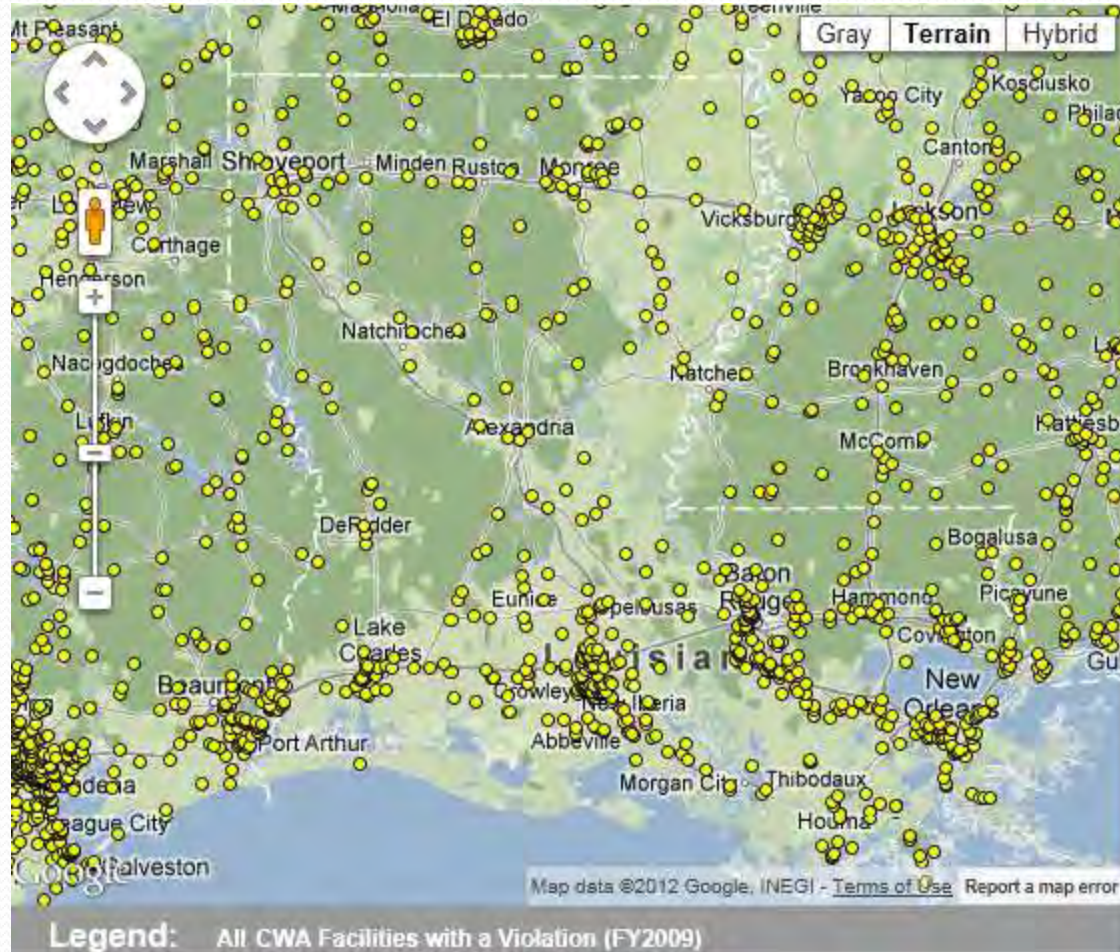
**NO RELEASES PROMPTED THESE FINES**

# Water Regulation and Enforcement

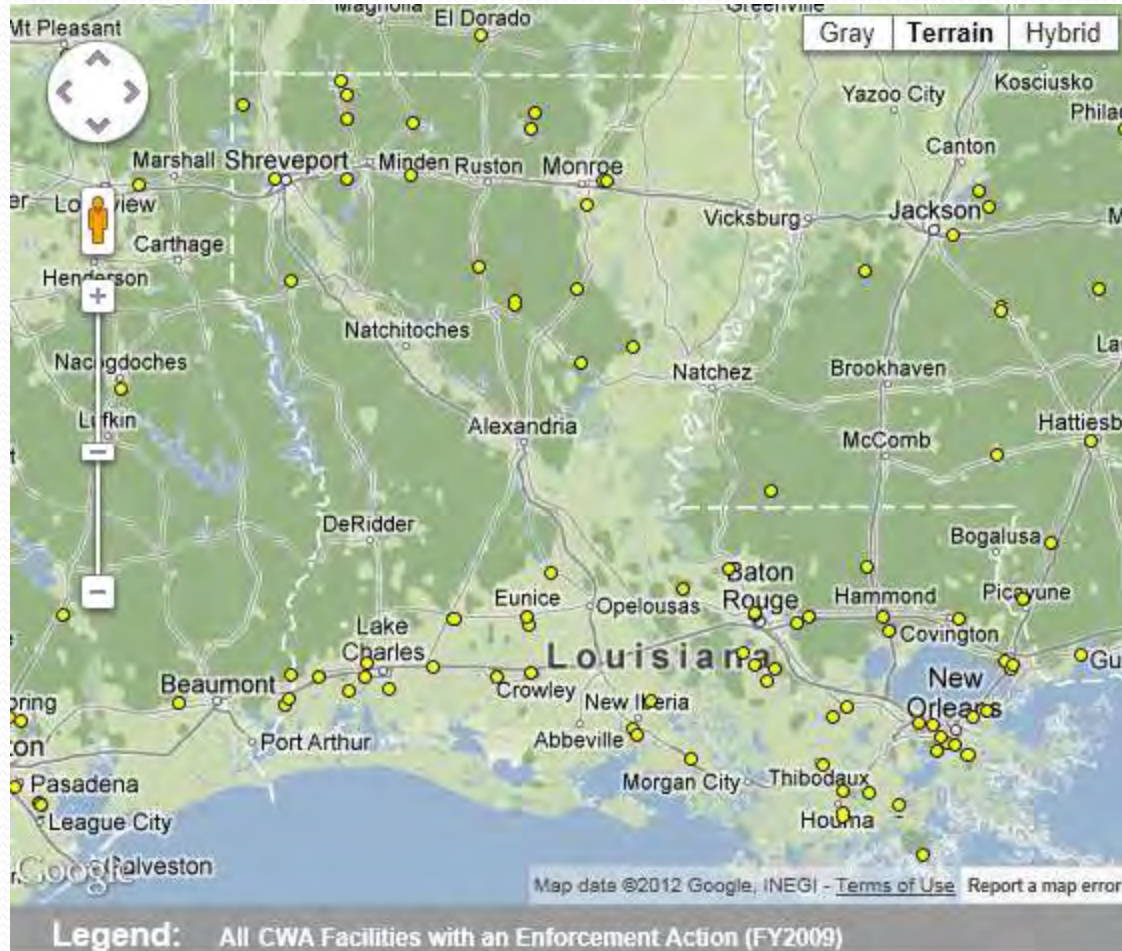


[http://www.epa-echo.gov/echo/dashboard/dashboard\\_all.php?state=LA](http://www.epa-echo.gov/echo/dashboard/dashboard_all.php?state=LA)

# Water Regulation and Enforcement



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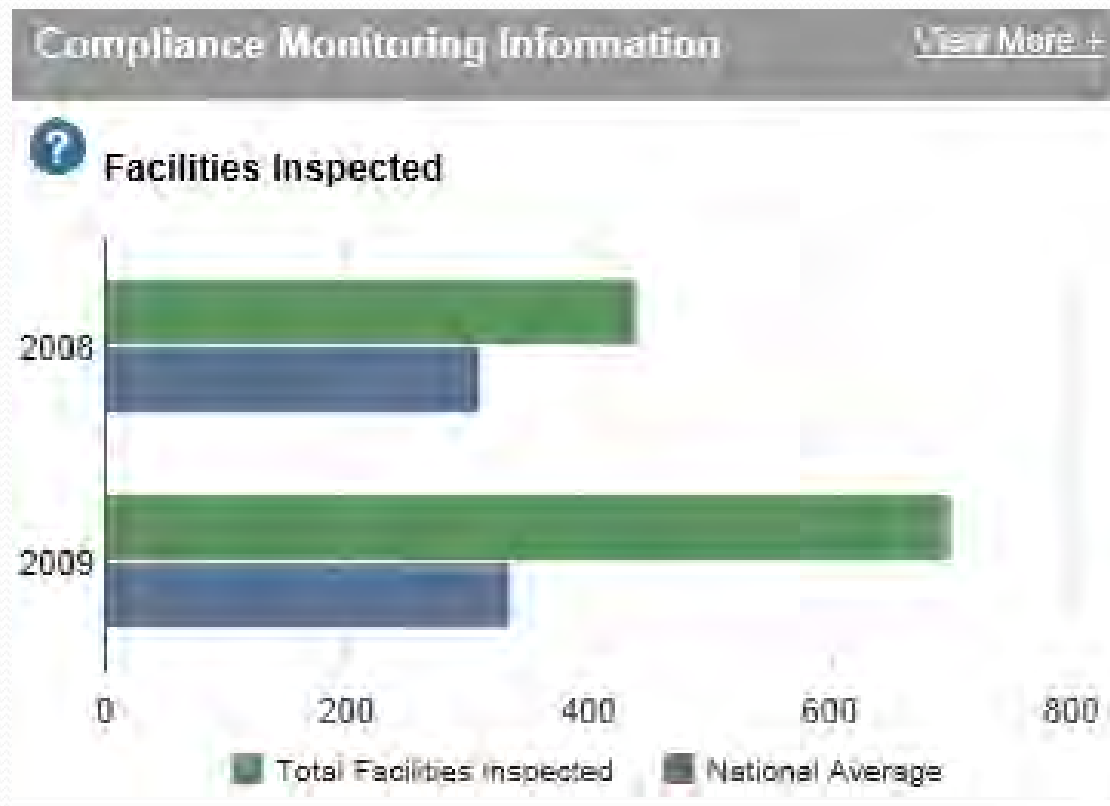




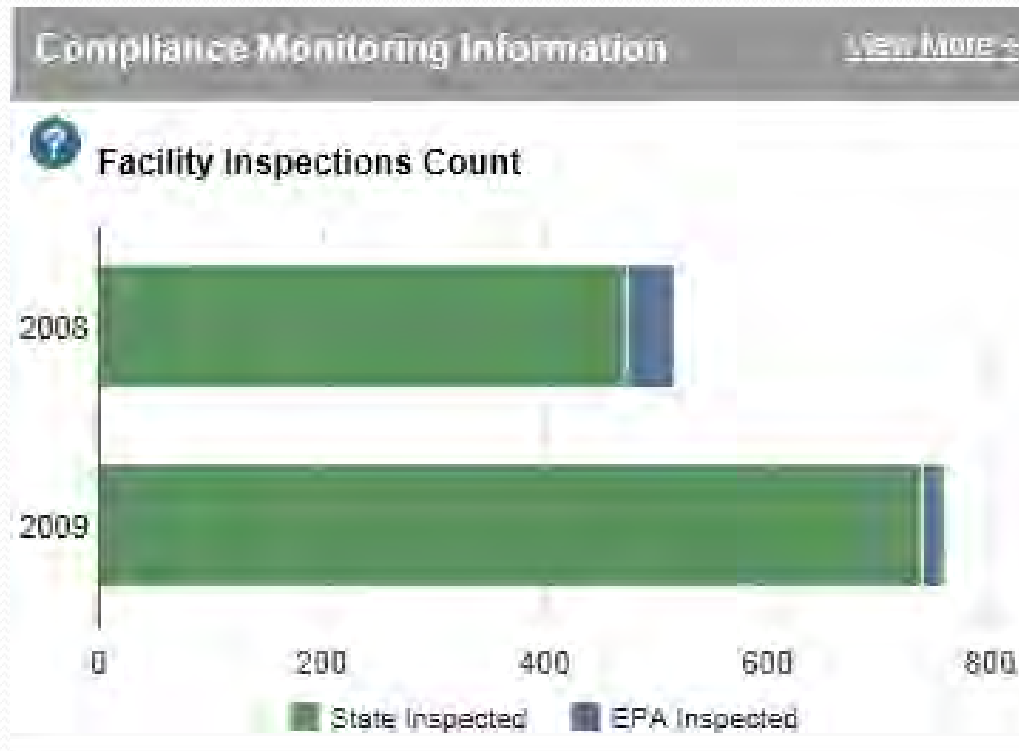
# Water Regulation and Enforcement



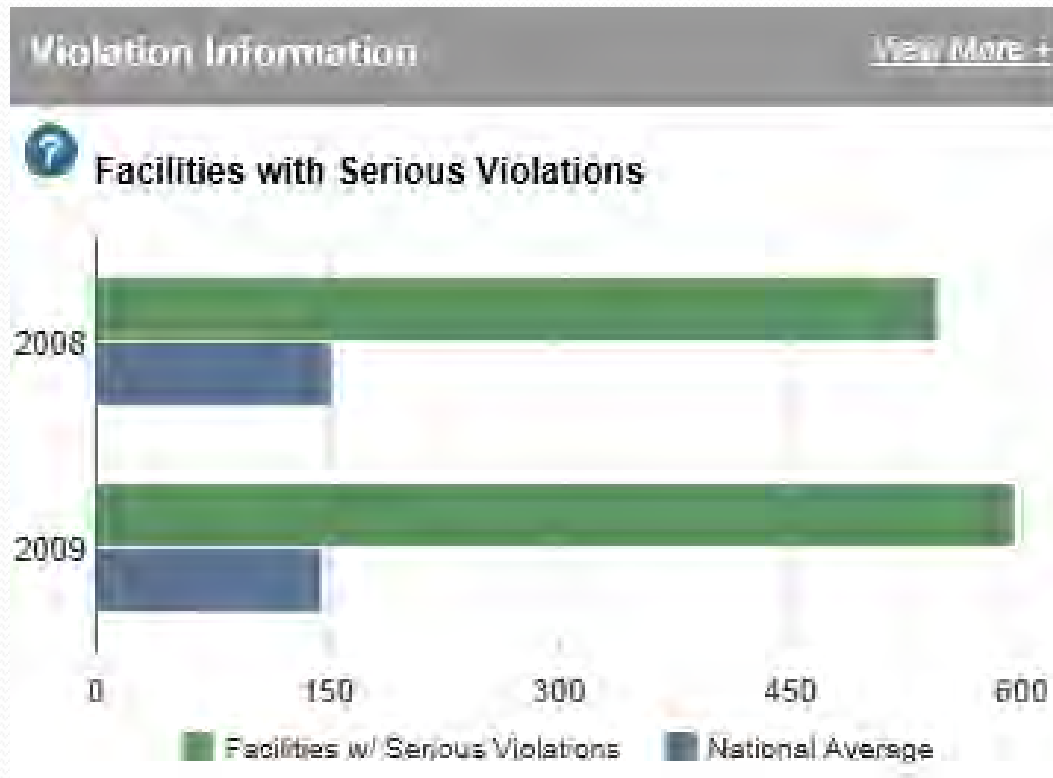
# Water Regulation and Enforcement



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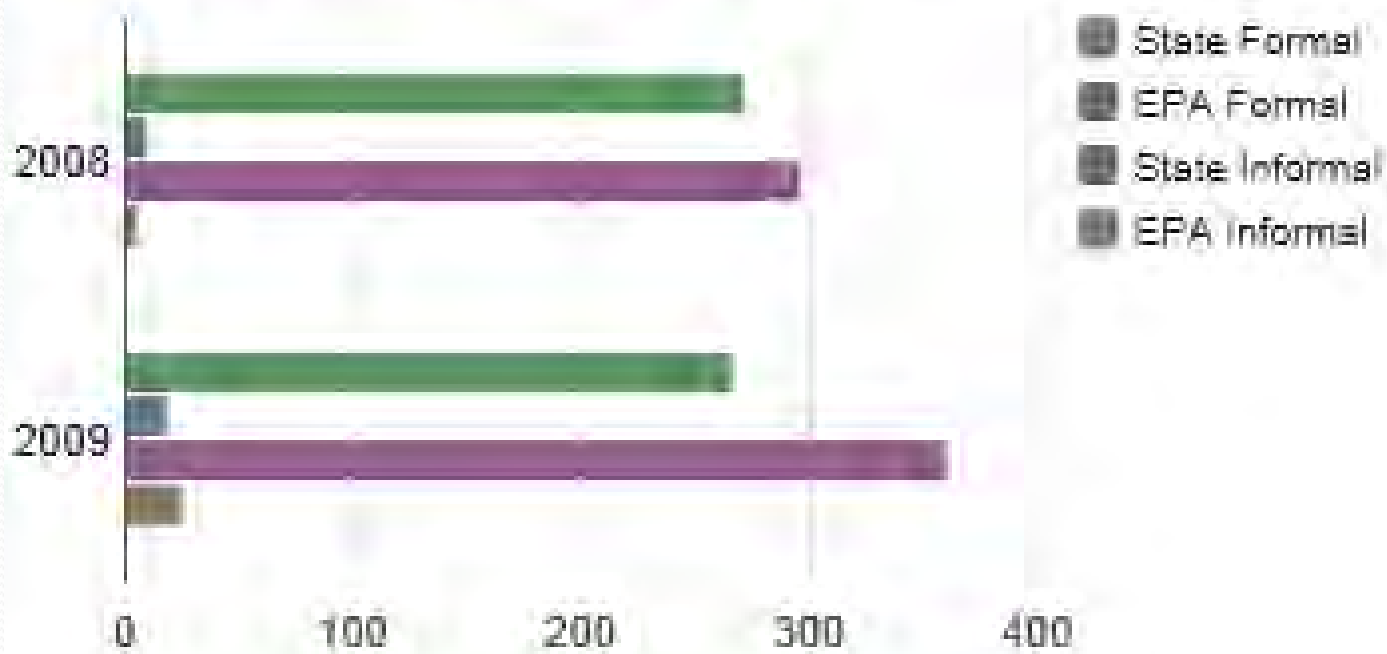
# Water Regulation and Enforcement

Enforcement Action Information

[View More +](#)



## Facilities with Enforcement Actions



# Water Regulation and Enforcement



# Water Regulation and Enforcement



Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels – Draft: Underground Injection Control Program Guidance #84

# Water Regulation and Enforcement

## 5.2.5.4. States' Regulatory Context

### *Arkansas and Louisiana*

At this time, Louisiana does not have regulations or guidelines specifically addressing water reuse. Arkansas had guidelines prior and now has adopted land disposal regulations with a provision for irrigation of forage and non-contact crops.

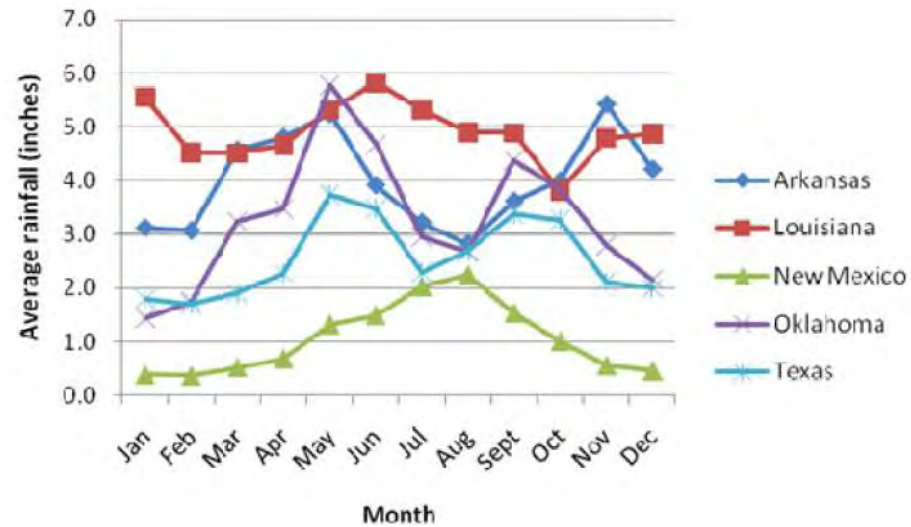


# 2012

Guidelines for Water Reuse



# Water Regulation and Enforcement



**Figure 5-23**  
Average monthly precipitation in the South Central region

# **Water Legislative Review**

## **Title 43**

### **NATURAL RESOURCES**

#### **Part XIX. Office of Conservation—General Operations**

##### **Subpart 1. Statewide Order No. 29-B**

##### **Chapter 1. General Provisions**

##### **§118. Hydraulic Fracture Stimulation Operations**

A. The provisions of this Rule shall apply to all new wells for which an initial drilling permit is issued on or after the effective date of this Rule that are stimulated by the application of fluids, which contain proppant such as sand or man-made inert material, with force and/or pressure in order to create artificial fractures in the formation for the purpose of improving the capacity to produce hydrocarbons.

# Water Legislative Review

**ENROLLED**

# **ACT No. 261**

AN ACT

1  
2 To amend and reenact R.S. 30:961(E) and to enact R.S. 30:961(D), relative to withdrawal of  
3 surface water; to extend the time frame within which opportunities for cooperative  
4 agreements for such withdrawal may be entered into; to provide for approval by  
5 legislative committees of certain cooperative endeavor agreements; and to provide  
6 for related matters.

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# Water Legislative Review

**ENROLLED**

## **ACT No. 809**

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 38:216.1 is hereby enacted to read as follows:

8 §216.1. Water control structures; unauthorized opening; penalties

9 A. No unauthorized person shall willfully open any water control structure

10 which will result in the drainage of saltwater into any natural water body or drain.

# Water Legislative Review

## S. 2122: Defense of Environment and Property Act of 2012

*112th Congress, 2011–2012*

A bill to clarify the definition of navigable waters, and for other purposes.

**Sponsor:** [Sen. Rand Paul \[R-KY\]](#)

**Status:** Referred to Committee

TRACK THIS BILL

TAKE A POSITION

 Like 7

Bill titles and the summary above are written by the sponsor. S. stands for Senate bill.

<http://www.govtrack.us/congress/bills/112/s2122>

# Water Legislative Review

## S. 2245: Preserve the Waters of the United States Act

*112th Congress, 2011–2012*

A bill to preserve existing rights and responsibilities with respect to waters of the United States.

**Sponsor:** [Sen. John Barrasso \[R-WY\]](#)

**Status:** Referred to Committee

TRACK THIS BILL

TAKE A POSITION

 Like 2

Bill titles and the summary above are written by the sponsor. S. stands for Senate bill.

<http://www.govtrack.us/congress/bills/112/s2245>

# **Water Legislative Review**

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# Water in the Courts

## SUPREME COURT OF THE UNITED STATES

Syllabus

SACKETT ET VIR *v.* ENVIRONMENTAL PROTECTION  
AGENCY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT

No. 10–1062. Argued January 9, 2012—Decided March 21, 2012

The Clean Water Act prohibits “the discharge of any pollutant by any person,” 33 U. S. C. §1311, without a permit, into “navigable waters,” §1344. Upon determining that a violation has occurred, the Envi-

Sackett v. EPA, 132 S.Ct. 1367 (2012)



# Water in the Courts

- U.S. v. Pruet, 681 F.3d 232 (5<sup>th</sup> Cir. 2012)
  - Appellate court upholds conviction and 21 months imprisonment for company owner and fine of company for Clean Water Act violations
  - Company violated National Pollution Discharge Elimination System (NPDES) permit conditions and testing requirements

# Water in the Courts

- Arabie v. CITGO Petroleum Corp. (La. 3/13/12). 89 So.3d 307
  - Civil suit by exposed construction workers after major spill into Calcasieu River
  - Louisiana Supreme Court says no punitive damages for exposed workers; upholds compensatory damages

# Water in the Courts

- U.S. v. CTCO Shipyard of Louisiana (EDLA)
  - CTCO pled guilty to criminal violation of LPDES permit, did not collect or test any samples for discharge
  - Fined \$525,000 and 3 years probation

**THANK YOU!**

**Lauren Godshall**

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