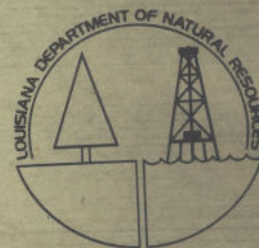




LOUISIANA COASTAL RESOURCES PROGRAM FINAL ENVIRONMENTAL IMPACT STATEMENT

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
OFFICE OF COASTAL ZONE MANAGEMENT
AND
LOUISIANA DEPARTMENT OF NATURAL RESOURCES
COASTAL MANAGEMENT SECTION
1980



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UNITED STATES DEPARTMENT OF COMMERCE
FINAL ENVIRONMENTAL IMPACT STATEMENT
FOR THE
LOUISIANA COASTAL RESOURCES PROGRAM

Prepared by:

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Washington, D.C. 20235

and

Louisiana Coastal Resources Program
Louisiana Department of Natural Resources
P.O. Box 44396
Baton Rouge, Louisiana 70804

1980

DESIGNATION: Final Environmental Impact Statement

TITLE: Proposed Federal Approval of the Louisiana Coastal Resources Program

ABSTRACT: The State of Louisiana has submitted its Coastal Resources Program to the Office of Coastal Zone Management for approval. Approval would allow program administrative grants to be awarded to the state, and require that federal actions be consistent with the program. This document includes a copy of the program (Part II) which is a comprehensive management program for coastal land and water use activities. It consists of numerous policies on diverse management issues which are enforced by various state laws, and is the culmination of several years of program development.

Approval and implementation of the program will enhance governance of the state's coastal land and water areas and uses according to the coastal policies and standards. The effect of these policies is to condition, restrict or prohibit various uses in parts of the coastal zone, while encouraging development and other uses in other parts. This program will improve decision-making processes for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness of coastal resources. The program will result in some short-term economic impacts on coastal users but will lead to increased long-term protection of the state's coastal resources.

Federal alternatives include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met. The state could modify parts of the program or withdraw their application for federal approval if either of the above federal alternatives result from circulation of this document.

APPLICANT: Louisiana Department of Natural Resources

LEAD AGENCY: U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management

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ACRONYMS

ACC, ACC/DHHR	Air Control Commission, Louisiana Department of Health and Human Resources
ACT 361	The Louisiana State and Local Coastal Resources Management Act of 1978, La. R. S. 49:213.1
AG	Attorney General
CEI	Coastal Environments, Inc.
CEIP	Coastal Energy Impact Program
CMS, CMS/DNR	Coastal Management Section, Louisiana Department of Natural Resources
CZMA	The federal Coastal Zone Management Act (P. L. 92-583)
CZM	Coastal Zone Management
DCRT	Louisiana Department of Culture, Recreation and Tourism
DEIS	Draft Environmental Impact Statement
DHHR	Louisiana Department of Health and Human Resources
DNR	Louisiana Department of Natural Resources
DPS	Louisiana Department of Public Safety
DOT	U. S. Department of Transportation
DOTD	Louisiana Department of Transportation and Development
DSL, DSL/DNR	Division of State Lands, Louisiana Department of Natural Resources
DWF	Louisiana Department of Wildlife and Fisheries
ECC	Environmental Control Commission
EPA	U. S. Environmental Protection Agency
FEIS	Final Environmental Impact Statement

HCRS	Heritage Conservation and Recreation Service, U. S. Department of Interior
HUD	U. S. Department of Housing and Urban Development
LACCMR	Louisiana Advisory Commission on Coastal and Marine Resources
LEAA	Louisiana Enviromental Affairs Act
LCC	Louisiana Coastal Commission
LCRP	Louisiana Coastal Resources Program
LOOP	Louisiana Offshore Oil Port
LOTA, LOTA/DOTD	Louisiana Offshore Terminal Authority, Louisiana Department of Transportation and Development
LSMA	Louisiana Special Managment Areas
MOU	Memorandum of Understanding
NASA	National Aeronautics and Space Administration
NEPA	National Environmental Policy Act
NOAA	National Oceanic and Atmospheric Administration
NOBRMA	New Orleans - Baton Rouge Metropolitan Area
NMFS	National Marine Fisheries Service, National Oceanic and Atmospheric Administration
OA	Office of Aviation, Louisiana Department of Transportation and Development
OC, OC/DNR	Office of Conservation, Louisiana Department of Natural Resources
OCS	Outer Continental Shelf
OCZM	National Oceanic and Atmospheric Administration's Office of Coastal Zone Management
OEA, OEA/DNR	Office of Environmental Affairs, Louisiana Department of Natural Resources
OMR, OMR/DNR	Office of Mineral Resources, Louisiana Department of Natural Resources

OPW	Office of Public Works, Louisiana Department of Transportation and Development
SCC, SCC/DWF	Stream Control Commission, Louisiana Department of Wildlife and Fisheries
SWFRC	Southwest Federal Regional Council
USF&W	U. S. Fish and Wildlife Service, U. S. Department of Interior
	National Interest Groups
	A.M.E.I.C.A.
	AFL-CIO
	American Bar Association
	American Association of Port Authorities
	American Bar Association
	American Bureau of Shipping
	American Farm Bureau Federation
	American Fisheries Society
	American Forest Industries
	American Gas Association
	American Hotel and Motel Association
	American Industrial Development Council
	American Institute of Architects
	American Institute of Merchant Shipping
	American Littoral Society
	American Mining Congress
	American Oceanic Organization
	American Petroleum Institute
	American Planning Association
	American Shore and Beach Preservation Association
	American Society of Civil Engineers
	American Society of Landscape Architects
	American Water Resources Association
	American Waterways Operators
	American Production Company
	Asphalt Co. Inc.

DISTRIBUTION: Comments were requested on the DEIS from the following federal, state and local agencies and other parties:

Federal Agencies

- *Advisory Council on Historic Preservation
- *Department of Agriculture
- *Department of the Army, Corps of Engineers
- *Department of Commerce
- *Department of Defense
- *Department of Energy
- Department of Health, Education and Welfare
- *Department of Housing and Urban Development
- *Department of the Interior
- Department of Justice
- Department of Labor
- *Department of Transportation
- U. S. Coast Guard
- *Environmental Protection Agency
- Federal Emergency Management
- *Federal Energy Regulatory Commission
- *General Services Administration
- Marine Mammal Commission
- Nuclear Regulatory Commission

National Interest Groups

- A.M.E.R.I.C.A.N.
- AFL-CIO
- *Amerada Hess Corporation
- American Association of Port Authorities
- American Bar Association
- American Bureau of Shipping
- American Farm Bureau Federation
- American Fisheries Society
- American Forest Institute
- American Gas Association
- American Hotel and Motel Association
- American Industrial Development Council
- American Institute of Architects
- American Institute of Merchant Shipping
- American Littoral Society
- American Mining Congress
- American Oceanic Organization
- American Petroleum Institute
- American Planners Association
- American Shore and Beach Preservation Association
- American Society of Civil Engineers
- American Society of Landscape Architects, Inc.
- American Water Resources Association
- American Waterways Operators
- *Amoco Production Company
- Ashland Oil, Inc.

National Interest Groups (Continued)

Associated General Contractors of America
Association of Oil Pipe Lines
*Atlantic Richfield Company
Atlantic States Marine Fisheries Commission
Atomic Industrial Forum
Barrier Islands Coalition
Boating Industry Association
Center for Law and Social Policy
Center for Natural Areas
Center for Urban Affairs
Center for Urban and Regional Resources
Chamber of Commerce of the United States
*Chevron U.S.A., Inc.
*Cities Service Company
City Service Oil Company
Coastal States Organization
*Conoco, Inc.
Conservation Foundation
Continental Oil Company
Council of State Governments
Council of State Planning Agencies
The Cousteau Society
Earth Metabolic Design Laboratories, Inc.
Edison Electric Institute
El Paso Natural Gas Co.
Environmental Policy Center
*Environmental Defense Fund, Inc.
Environmental Law Institute
*EXXON Company, U.S.A.
Friends of the Earth
*Getty Oil Company
Great Lakes Basin Commission
Gulf Energy and Minerals, U.S.
Gulf Oil Company
Gulf Refining Company
Gulf South Atlantic Fisheries Development Foundation
Independent Petroleum Association of America
Industrial Union of Marine and Shipbuilding Workers of America
Institute for the Human Environment
Institute for Marine Studies
Interstate Natural Gas Association of America
Izaak Walton League
Lake Michigan Federation
League of Conservation Voters
*League of Women Voters Education Fund
Marathon Oil Company
Marine Technology Society
Mobil Oil Corporation
Mobil Exploration and Producing, Inc.
Murphy Oil Company
National Academy of Engineering
National Association of Conservation Districts

National Interest Groups (Continued)

National Association of Counties
National Association of Dredging Contractors
National Association of Electric Companies
National Association of Engine and Boat Manufacturers
National Association of Home Builders
National Association of Realtors
National Association of Regional Councils
National Association of State Boating Law Administrators
National Association of State Park Directors
National Audubon Society
National Boating Federation
National Canners Association
National Coalition for Marine Conservation, Inc.
National Commission on Marine Policy
National Conference of State Legislators
National Environmental Development Association
National Farmers Union
National Federation of Fisherman
National Fisheries Institute
National Forest Products Association
National Governors Association
National League of Cities
National Ocean Industries Association
National Parks and Conservation Association
National Petroleum Council
National Petroleum Refiners Association
National Realty Committee
National Recreation and Park Association
National Research Council
National Science Foundation
National Science Teachers Association
National Shrimp Congress
National Society of Professional Engineers
National Wildlife Federation
National Waterways Conference
Natural Gas Pipeline Company of America
Natural Resources Defense Council
The Nature Conservancy
Nautilus Press
New England River Basin Commission
North Atlantic Ports Association
*Outboard Marine Corporation
*Phillips Petroleum Company
Resources for the Future
Rice University Center for Community Design and Development
Shell Oil Company
*Shellfish Institute of North America
Shipbuilders Council of America
Skelly Oil Company
Society of Industrial Realtors

National Interest Groups (Continued)

Society of Real Estate Appraisers
Soil Conservation Society of America
Southern California Gas Company
Sport Fishing Institute
Standard Oil Company of Ohio
*Sun Company, Inc.
Tenneco Oil Company
*Tennessee Gas Pipeline
*Texaco, Inc.
Texas A & M University
*Texas Eastern Transmission Corp.
*Texas Pacific Oil Company, Inc.
*Transco Energy Company
United Brotherhood of Carpenters and Joiners of America
Union Oil Company of California
Urban Research and Development Association, Inc.
U. S. Conference of Mayors
U. S. Power Squadrons
Virginia Marine Resources Commission
Water Pollution Control Federation
Water Transport Association
Western Oil and Gas Association
Wildlife Management Institute
The Wildlife Society
World Dredging Association

State and Local Agencies

Assumption Parish Police Jury
Board of Commissioners of the Port of Lake Charles
Board of Commissioners of the Port of New Orleans
Calcasieu Parish CZM Advisory Committee
Calcasieu Parish Police Jury
Cameron Parish CZM Advisory Committee
Cameron Parish Police Jury
Capital Region Planning Commission
City of Abbeville
City of Cameron
City of Franklin
City of Houma
City of Lafayette
City of LaPlace
City of Morgan City
City of New Iberia
*City of New Orleans
City of Slidell
City of Thibodaux
Evangeline Economic Development Commission
House Committee on Natural Resources
Iberia Parish CZM Advisory Committee

State and Local Agencies (continued)

Iberia Parish Police Jury
Imperial Calcasieu Regional Planning and Development Commission
Jefferson Parish Council
Jefferson Parish CZM Advisory Committee
*Lafourche Parish CZM Advisory Committee
Lafourche Parish Police Jury
*Lafourche-Terrebonne Soil and Water Conservation District
Livingston Parish CZM Advisory Committee
Livingston Parish Police Jury
Louisiana Attorney General's Office
Louisiana Coastal Commission
Louisiana Department of Agriculture
Louisiana Department of Culture, Recreation and Tourism
Louisiana Department of Health and Human Resources
Louisiana Department of Justice
*Louisiana Department of Natural Resources
Louisiana Department of Public Service
*Louisiana Department of Transportation and Development
Offshore Terminal Authority
Louisiana Department of Wildlife and Fisheries
Louisiana Legislative Council
Louisiana Soil and Water Conservation Committee
Louisiana State Parks and Recreation Commission
Louisiana State Planning Office
Louisiana State University
Louisiana State University Center for Wetland Resource
Louisiana State University Marine Extension Service
Louisiana Stream Control Commission
New Orleans City Planning Commission
Nicholls State University
Plaquemine Parish Commission Council
Regional Planning Commission for Jefferson, Orleans, St. Bernard and
St. Tammany Parishes
St. Bernard Parish CZM Advisory Committee
*St. Bernard Parish Planning Commission
St. Bernard Parish Police Jury
St. Charles Parish CZM Advisory Committee
St. Charles Parish Police Jury
St. James Parish CZM Advisory Committee
St. James Parish Police Jury
St. John the Baptist Parish CZM Advisory Committee
St. John the Baptist Parish Police Jury
St. Mary Parish CZM Advisory Committee
St. Mary Parish Police Jury
St. Tammany Parish CZM Advisory Committee
St. Tammany Parish Planning Commission
St. Tammany Parish Police Jury
Senate Committee on Natural Resources
*South Central Planning and Development Commission
South Louisiana Port Commission
Tangipahoa Parish CZM Advisory Committee
Tangipahoa Parish Police Jury

State and Local Agencies (continued)

- Terrebonne Parish CZM Advisory Committee
- *Terrebonne Parish Police Jury
- University of New Orleans
- University of Southwest Louisiana
- *Vermilion Parish CZM Advisory Committee
- *Vermilion Parish Police Jury

State and Local Interest Groups

- AFL-CIO
- American Lung Association
- American Rice Growers Association
- American Shrimp Cannery Association
- American Sugar Cane League
- Association of General Contractors of Louisiana
- Baton Rouge Audubon Society
- Burk and Associates, Inc.
- Cactus Clyde Productions
- Central Louisiana Electric Company
- *Chamber of Commerce of New Orleans and the River Region
- *Citizens for Safe Energy
- Clio Sportsman's League
- Coastal Environments, Inc.
- Council for A Better Louisiana
- Crown Zellerbach Corporation
- *Delta Chapter-Sierra Club
- *Ecology Center of Louisiana
- Energy Impact Association
- Enviro-med Laboratories, Inc.
- Envirosphere
- Freeport Chemical Company
- *Fund for Animals
- Gulf States Utilities, Inc.
- Harvey Canal Industrial Association
- Homebuilders Association of Greater New Orleans
- *Houma-Terrebonne Chamber of Commerce
- Louisiana Association of Business and Industry
- Louisiana Association of Municipalities
- Louisiana Chemical Association
- Louisiana Farm Bureau Association
- Louisiana Fisheries Federation
- *Louisiana Forestry Association
- Louisiana Intracoastal Seaway Association
- Louisiana Land and Exploration Corporation
- Louisiana Land Royalty Owners of Louisiana
- Louisiana Landowners Association, Inc.
- Louisiana Levee Boards Association
- Louisiana Manufacturers Association
- *Louisiana Oyster Dealers and Growers Association

State and Local Interest Groups (continued)

Louisiana Police Jury Association
Louisiana Power and Light
Louisiana Seafood Dealers Association
*Louisiana Wildlife Federation
*Mid-Continent Oil and Gas Association
Miller - Vidor Land Company
*Milling, Benson, Woodward, Hillyer, Pierson and Miller
*New Orleans Chapter of the Audubon Society
New Orleans Public Service, Inc.
New Orleans Shrimp Company
Public Affairs Research Council
*RESTORE
St. Charles Parish Environmental Council
St. Mary-Franklin Banner-Tribute
Schrober and Associates
Sellers, Dubroc and Associates
State Times and Morning Advocate
States Item and Times Picayune
Steimle, Smalley and Associates, Inc.
Tangipahoa Environmental Council
T. Baker Smith and Son, Inc.
*Williams, Inc.

Other Interested Parties

Environmental Management Library
Gulf Coast Research Laboratories, Inc.
Kaiser Aluminum and Chemical Corporation
Kirby Lumber Company
Liberty Fish and Oyster Company
MAVAR Shrimp and Oyster Company
*New Orleans East, Inc.
OLIN Company
Shrimp Association of the Americas
Southeastern Fisheries Association
Texas Eastern Transmission Company
Zapata Haynie Corporation

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Representative John Breaux
Former Representative David Treen
Representative Robert Livingston
Representative Gillis Long
Representative Henson Moore

Senator J. Bennett Johnston
Senator Russell Long

Interested Citizens

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NOTE: (*)Denotes agencies/parties from which comments on the Draft Environmental Impact Statement were received.

SUMMARY

A) LOUISIANA COASTAL RESOURCES PROGRAM

The Louisiana Coastal Resources Program (LCRP) is based, in large part, on the Louisiana State and Local Coastal Resources Management Act of 1978 (Act 361). The comprehensive coastal management program authorized by Act 361 and described in Part II of this document contains the following basic elements:

- 1) A comprehensive set of coastal zone management policies - These policies will guide land and water use decision making within the coastal zone. This policy base includes a new set of enforceable policies referred to as coastal use guidelines as well as other state regulatory policies which have been incorporated into the program.
- 2) An organized state and local government structure for implementation of the above policies - This structure includes the implementation of a new state coastal use permit program to be administered by the Coastal Management Section of the Department of Natural Resources and coordination procedures to ensure that the activities of other state agencies and deepwater ports are consistent with the coastal use guidelines. A specific role is provided for local governments, who may voluntarily develop local coastal management programs. The Louisiana Coastal Commission which represents state, local and various private interest groups plays a key role in the development of the guidelines and implementation.
- 3) The delineation of the coastal zone boundary - The coastal zone is bounded on the east and west by the respective Mississippi and Texas borders, on the south by Louisiana's three-mile seaward boundary, and on the north, generally, by the Intracoastal Waterway running from the Texas-Louisiana state line then following highways through Vermilion, Iberia, and St. Mary Parishes, then dipping southward following the natural ridges below Houma, then turning northward to take in their entirety the parishes of St. Charles, Plaquemines, St. Bernard, Orleans, Jefferson, St. John the Baptist and St. James, a portion of the parishes on the northern shore of Lake Pontchartrain and ending at the Mississippi-Louisiana border.

B) CHANGES THE PROGRAM WILL MAKE

Implementation of the LCRP will result in significant changes in the manner in which the coastal resources of the state are managed. Most significant are provisions for:

- 1) The application of a new set of comprehensive state coastal policies, the coastal use guidelines, to coastal land and water use decision making.

- 2) The implementation of a new permit system, the coastal use permit system, as the primary means of enforcing the coastal use guidelines.
- 3) The implementation of procedures to insure that deepwater port and state and local government activities not subject to the coastal use permit program, are consistent with the guidelines.
- 4) The development of a coordinated permit process to streamline the implementation of federal, state and local permit program in the coastal area.
- 5) A specific local government role in the development and implementation of the LCRP, including procedures whereby coastal parishes may voluntarily assume a greater role in the coastal management process through the development of local coastal management programs.
- 6) The management of unique coastal areas through the development of special area management programs including enhancement efforts such as the development of a state fresh-water diversion plan to build coastal marshes.
- 7) The consideration of the national interests in coastal decision-making and the prevention of the arbitrary exclusion of uses of regional benefit from the coastal zone.
- 8) The development of procedures to assure that the activities of federal agencies affecting the coastal zone area coordinated and consistent with the policies of the program.

Federal approval of the LCRP will strengthen the state's efforts to implement the program. Approval will provide much needed funding for activities such as the development of local coastal programs, administration of the coastal use permit program and enforcement and monitoring systems. Federal approval will also ensure that federal agency actions will be consistent, to the maximum extent practicable, with the policies of the LCRP.

C) AREAS OF CONTROVERSY

Several areas of controversy have been prevalent throughout the development of the LCRP. The following discussion summarizes the major issue areas that evolved during the early steps of program development prior to the passage of Act 361 in the summer of 1978 and the program development process that has followed.

The delineation of the inland boundary of the coastal zone has been the most controversial issue related to development of the LCRP. This task was complicated by difficulties in determining the precise boundaries between the freshwater, transitional, and salt water wetlands found in the coastal area as well as widely divergent opinions as to the need to include these and other areas, e.g. "Fast lands" within the coastal boundary. A wide variety of boundaries, reflecting the above differences of opinion

have been proposed over the course of the last five years. These boundaries include the 26 southern most parishes in their entirety, a line approximately the five foot elevation contour, and a line of three miles inland from the shoreline.

The inland boundary delineated by Act 361 and described in Chapter III represents a compromise between these and other previously proposed boundaries. The inland boundary also meets the minimum requirements of the CZMA in that it includes the specific resource areas noted in Sections 304 (1) and (2) of the CZMA.

The second area of controversy centered on relative roles that the state and local levels of government would play in implementing the program. Previously proposed management structures, for example, tended either to emphasize a predominantly state or local role, or failed to clearly delineate how the two levels of government would interact.

Act 361 attempts to receive this controversial issue by providing a shared state-local (parish)partnership for the management of the Louisiana coastal zone. Although the elements of this approach are discussed in detail in Chapter IV, the essential elements are as follows. The primary responsibility for implementing the policies of the LCRP is located at the state level in that the Department of Natural Resources will be responsible for implementing the coastal use permit system. Coastal parishes may, however, voluntarily develop local management programs. If these programs are found to be consistent with the program's policies and other applicable requirements, parishes may then assume the regulation of a certain class of activities, i.e., uses of local concern as well as a stronger role in reviewing state and federal activities. It should also be noted that local governments are well represented on the Louisiana Coastal Commission which, among other functions, plays a key role in the development of the coastal use guidelines, and acts as the appeals body for coastal use permit and local program approval decisions.

Another area of controversy involved widespread concern that the development of a separate regulatory system for purposes of implementing the LCRP would further complicate the administration of existing local, state, and federal regulatory programs. Of major concern was the interface between the state coastal regulatory system and the Section 10/404 permit processes of the U.S. Army Corps of Engineers. Act 361 provides for the resolution of some of these intergovernmental coordination problems through a number of means (see Chapter IV). These include provisions that two existing permit programs be utilized for implementing state and coastal policy in-lieu of the coastal use permit system, so long as these existing regulatory programs are implemented in a manner consistent with the coastal use guidelines. DNR has developed memoranda of understanding with other agencies to ensure that such in-lieu permits and other such activities undertaken, conducted or supported by state agencies are consistent with the coastal use guidelines. The state and the Corps will also initiate a joint permit system following program approval. This system will take advantage of joint review of permit applications and provides for consistency between state and federal decision-making. The DNR is also currently beginning the development of a broader coordinated permit review

process pursuant to Act 361. This process includes memoranda of understanding with relevant state and federal agencies. It should be noted, however, that federal approval of the LCRP does not result in the delegation of federal permitting programs, e.g. the Corps' section 404 permit program to the states.

Act 361 also provides that certain deepwater port commissions and deepwater port, harbor, and terminal districts are not required to obtain coastal use permits, provided that their activities are consistent to the maximum extent practicable with the state program and affected local programs. The LCRP will ensure that such activities are consistent through the use of federal consistency review procedures and a memorandum of understanding with the Port of New Orleans.

The determination of those uses proposed to be located within the coastal zone which would be exempt from the coastal use permit process, and hence the application of the coastal use guidelines is also a controversial issue. Section 213.15 of Act 361 provides for several types of exemptions. For example, while "fast lands" and "lands five feet above mean sea level" are included within the coastal zone, Act 361 provides that activities occurring on or within these areas do not require a coastal use permit, except when the Secretary of DNR finds that such an activity would have a direct and significant impact in coastal waters.

Act 361 also provides that activities within the jurisdiction of the Louisiana Offshore Terminal Authority (LOTA), related to the construction of the Louisiana Offshore Oil Port do not require a coastal use permit. These activities must however be consistent with the environmental protection plan of LOTA, ensuring protection of the area in question.

Act 361 also provides that construction of a residence or camp does not require a coastal use permit. The DNR has, in its procedural rules for implementation of the coastal use permit, provided a detailed clarification of these exemptions so as to minimize any adverse environmental impacts that might result from an overly broad interpretation of these two statutory exemptions.

The final area of major controversy in the development of the LCRP relates to the specificity and predictability of the coastal use guidelines, which are the principle policy base of the program. Pursuant to the mandate of Section 213.8 of Act 361, draft guidelines were made available to the public in the LCRP Hearing Draft document in March, 1979. With few exceptions, most reviewers who submitted written comments and/or appeared at the two public hearings on the guidelines and the Hearing Draft expressed the belief that the draft guidelines were too ambiguous, leaving too much discretion to the administrator of the program. Most reviewers went on to note that the use of terms such as "best available", "when appropriate", "if feasible" and "maximum extent practical" when used to modify standards contained in the guidelines would prevent the predictable application of the guideline by decision makers.

In response to the comments received on the draft guidelines, the guidelines were substantially revised prior to their submission to the

Coastal Commission on May 30, 1979. The major revisions included a reduction in the number of terms used to modify the standards contained in the guidelines and the development of a new guideline 1.8 which provided a "balancing test" to use in applying the guidelines. The term "to the maximum extent practicable" was chosen as the modifier for guideline standards in which some flexibility in their application was felt to be needed in order to provide for a balanced approach to coastal management. The new guideline 1.8 was then developed to identify the specific factors that must be considered by the decision maker in allowing a proposed activity to proceed when the activity is not in compliance with the standard modified by the term "to the maximum extent practicable". In response to comments received on the DEIS, additional narrative sections have been added to Chapter II to explain the application of guideline 1.8.

D) ISSUES TO BE RESOLVED

Given the nature of the proposed action, which is approval of the Louisiana Coastal Resources program, all federal alternatives involve a decision to delay or deny approval. To delay or deny approval could be based on failure of the Louisiana program to meet any one of the requirements of the federal Coastal Zone Management Act (CZMA). In approving a CZM program affirmative findings must be made by the Assistant Administrator for Coastal Zone Management on more than twenty requirements.

As noted in the above discussion, the development of the LCRP has been very controversial, and has required the resolution of numerous complex issues, many of which could have resulted in a program deficient with respect to the requirements of the CZMA. The Assistant Administrator for Coastal Zone Management has made a preliminary determination that these deficiencies exist and considers the alternatives of delaying or denying approval based upon each issue area.

To briefly summarize the alternatives discussion found in Part III, the Assistant Administrator believes that there are two key issues to be resolved by the program review process. More specifically the Assistant Administrator believes that the following are the key reasons why he may consider the alternatives of delaying or denying approval of the LCRP:

- The draft coastal use guidelines contained in the document may not be specific enough to ensure a sufficient degree of predictability in decision-maker.
- The exemptions to the coastal use permit program provided by Act 361 may be of such significant scope that the program cannot provide for the management of all uses having a direct and significant impact on coastal waters.

PART I
PURPOSE AND NEED

PART I PURPOSE AND NEED

In response to intense pressure, and because of the importance of coastal areas of the United State, Congress passed the Coastal Zone Management Act (P.L. 92-583) (CZMA) which was signed into law on October 27, 1972. The CZMA authorized a federal grant-in-aid program to be administered by the Secretary of Commerce, who in turn, delegated this responsibility to the National Oceanic and Atmospheric Administration's (NOAA) Office of Coastal Zone Management (OCZM). The Coastal Zone management Act of 1972 was substantially amended on July 26, 1976, (P.L. 94-370). The Act and the 1976 amendments affirm a national interest in the effective protection and development of the coastal zone by providing assistance and encouragement to coastal states in developing and implementing rational programs for managing their coastal areas.

Broad guidelines and the basic requirements fo the CZMA provide the necessary direction to states for developing coastal management programs. These guidelines and requirements for program development and approval are contained in 15 CFR Part 923, as revised and published March 28, 1979, in the Federal Register, as shown in Table 1. In summary, the requirements for program approval are that the state develop a management program that:

1. Identifies and evaluates those coastal resources recognized in the CZMA that require management or protection by the state.
2. Re-examines existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed.
3. Determines specific uses and specific geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. Uses and areas to be subject to management should be based on resource capability and suitability analyses, socioeconomic considerations and public preferences.
4. Identifies the inland and seaward areas subject to the management program.
5. Provides for the consideration of the national interest in planning for the siting of facilities that meet more than local requirements.
6. Includes sufficient legal authorities and organizational arrangements to implement the program and to insure conformance to it.

In arriving at these substantive aspects of the management program, states are obliged to follow an open process which involved providing information to, and considering the interests of, the general public, special interest groups, local government, and regional, state, interstate and federal agencies.

Section 305(c) of the CZMA authorizes a maximum of four annual grants to develop a coastal management program. After developing a management program, the state may submit it to the Secretary of Commerce for approval pursuant to Section 306 of the CZMA. If approved, the state is then eligible for an annual grant under Section 306 to implement its management program. If a program has deficiencies which need to be remedied or has not received approval by the time Section 305 program development grants have expired, a state may be eligible for preliminary approval and additional funding under Section 305(d). Louisiana was awarded a Section 305(d) grant on May 1, 1979.

Section 307 of the CZMA stipulates that federal agency actions shall be consistent, to the maximum extent practicable, with approved state management programs. Section 307 further provides for mediation by the Secretary of Commerce when a serious disagreement arises between a federal agency and a coastal state with respect to a federal consistency issue.

Section 308 of the CZMA contains several provisions for grants and loans to coastal states to enable them to plan for response to onshore impacts resulting from coastal energy activities. To be eligible for assistance under Section 308, coastal states must be receiving 305 or 306 grants, or, in the secretary's view be developing a management program consistent with the policies and objectives contained in Section 303 of the CZMA. Section 308 has been important to Louisiana. The state has received \$217,406 in planning funds, \$29.8 million in grants and \$56.9 million in loans for financing new or improved facilities and public services, and \$773,000 in funds to help prevent, reduce or ameliorate unavoidable losses to valuable coastal environmental and recreational resources.

Some of the projects funded with Section 308 monies include equipment for a hospital in Lafource Parish, a freshwater siphon in St. Bernard that will help to retard saltwater intrusion, and a planning grant for port development in Iberia Parish.

The National Environmental Policy Act of 1969 (NEPA) requires that an environmental impact statement be prepared as part of the review and approval process of major actions by federal agencies which significantly affect the quality of the human environment. The action contemplated here is approval of the Louisiana Coastal Zone Management Act of 1972, as amended.

Approval qualifies Louisiana for federal matching funds for use in implementing and administering the coastal management program. In addition, the Coastal Zone Management act stipulates that federal activities affecting the coastal zone shall be consistent to the maximum extent practicable, with the approved coastal management program.

It is the general policy of the Office of Coastal Zone Management (OCZM) to issue a combined final environmental impact statement (FEIS) and coastal management program document.. Part I of this FEIS was prepared by OCZM and includes a summary of the Louisiana Coastal Resource Program. Part II was prepared by the Louisiana Department of Natural Resources (DNR) as were the appendices and attachments. Part II also fulfills, in part, the NEPA requirements for description of the proposed action. Parts III through V address the remainder of the NEPA requirements for a FEIS and were prepared jointly by OCZM and DNR.

For purposes of reviewing the proposed action, the important federal concerns are:

7. whether the Louisiana program is consistent with the objectives and policies of the national legislation;
8. whether the award of federal funds under Section 306 of the CZMA will help Louisiana meet those objectives;
9. whether the state's management authorities are adequate to implement the LCRP; and
10. whether there will be a net environmental benefit as a result of program approval and implementation.

OCZM has made a preliminary assessment that the answers to these questions are affirmative. OCZM wants the widest possible circulation of this document to all interested agencies and apties in order to receive the fullest expression of opinion on these questions, and wishes to thank those participating in the review of the Louisiana program and this final environmental impact statement.

TABLE 1
FINDINGS NECESSARY FOR SECTION 306 APPROVAL
(Fed. Reg. Vol. 44, No. 61-March 28, 1979-Sec. 923.71, Table 2)

<u>Requirements</u>	<u>Section of Approval Reg.</u>	<u>Source</u>
Sec. 306(a), which includes the requirements of Sec. 305		
305(b)(1): Boundaries	923.31-923.34	Chapter III
305(b)(2): Uses subject to management	923.11	Chapter IV
305(b)(3): Areas of particular concern	923.21-923.23	Chapter V
305(b)(4): Means of control	923.41	Chapter IV
305(b)(5): Guidelines on priorities of uses	923.21	Chapter V
305(b)(6): Organizational structure	923.46	Chapter IV
305(b)(7): Shorefront planning process	923.24	Appendix d
305(b)(8): Energy facility planning process	923.13	Appendix e
305(b)(9): Erosion planning process	923.25	Appendix f
Sec. 306(c), which includes		
306(c)(1): Notice; full participation; consistent with Sec. 303	923.3, 923.51 923.55 & 923.58	Appendices g and h
306(c)(2)(A): Plan Coordination	923.56	Appendix h
306(c)(2)(B): Continuing consultation mechanisms	923.57	Appendix h
306(c)(3): Public Hearings	923.58	Appendix g
306(c)(4): Gubernatorial review and approval	923.48	Page 13
306(c)(5): Designation of recipient agency	923.47	Page 13 and Chapter IV
306(c)(6): Organization	923.46	Chapter IV
306(c)(7): Authorities	923.41	Chapter II/IV
306(c)(8): Adequate consideration of national interest	923.52	Chapter VI
306(c)(9): Areas for preservation/restoration	923.22	Chapter V
Sec. 306 (d), which includes:		
306(d)(1): Administer regulations, control development; resolve conflicts	923.41	Chapter IV
306(d)(2): Powers of acquisition, if necessary	923.41	Chapter IV

TABLE 1
FINDINGS NECESSARY FOR SECTION 306 APPROVAL
(Fed. Reg. Vol. 44, No. 61-March 28, 1979 - Sec. 923.71, Table 2)

<u>Requirements</u>	<u>Section of Approval Regs.</u>	<u>Source</u>
Sec. 306(c), which includes:		
306(c)(1): Technique of control	923.42-923.44	Chapter IV
306(c)(2): Uses of regional benefit	923.12	Chapter VI
Sec. 306(h): Segments	923.61	N/A
Sec. 307, which includes:		
307(b): Adequate consideration of Federal agency views	923.51	Chapter VI Appendix h
307(f): Incorporation of air and water quality requirements	923.45	Chapter II/IV

PART II
DESCRIPTION OF THE PROPOSED ACTION
THE LOUISIANA COASTAL RESOURCES PROGRAM

MAP



DAVID C. TREEN
GOVERNOR

State of Louisiana

EXECUTIVE DEPARTMENT

Baton Rouge

August 5, 1980

The Honorable Philip M. Klutznick, Secretary
United States Department of Commerce
14th and Constitution Avenue, N. W.
Washington, D. C. 20230

Dear Secretary Klutznick:

I am pleased to submit the Louisiana Coastal Resources Program for your review and approval pursuant to Section 306 of the Federal Coastal Zone Management Act of 1972, as amended.

Louisiana initiated efforts to plan for and manage its coastal resources in 1971 when the Legislature created the Louisiana Advisory Commission on Coastal and Marine Resources. This Commission was directed to identify the needs and problems in the use of Louisiana's coastal and marine resources and to determine what action should be taken to insure the orderly long-range conservation and development of its coastal and marine resources. In 1974, Louisiana applied for and received the first planning grant under Section 305 of the Federal Coastal Zone Management Act of 1972. Following two years of planning, the Legislature passed a comprehensive bill, the State and Local Coastal Resources Management Act of 1978. Based on this legislation, we have worked diligently to develop a sound management program which will preserve, protect, develop and, where appropriate, restore the resources of the coastal area.

I have examined the program and approve it as state policy and further certify that:

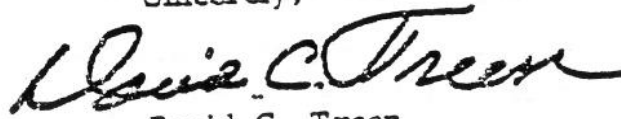
- a. In order to consolidate the environmental resource responsibilities within the state, I have, by Executive Order 80-15 of July 8, 1980 (attached), transferred the Louisiana Coastal Zone Management Program from the Office of the Secretary of the Department of Transportation and Development to the Office of the Secretary of the Department of Natural Resources;
- b. The Office of the Secretary of the Department of Natural Resources, as designated by the Executive Order, is the lead agency for implementation of the Louisiana Coastal Resources Program and shall receive and administer grants authorized by the Coastal Zone Management Act, including those for the Coastal Energy Impact Program; and

The Honorable Philip M. Klutznick
August 5, 1980
Page 2

- c. Louisiana has the authority required under the State and Local Coastal Resources Management Act of 1978 and has the organizational structure to implement the Louisiana Coastal Resources Program.

We appreciate the cooperation and assistance provided by your staff in the Office of Coastal Zone Management, and look forward to a strong and productive relationship between Louisiana and the Federal Government in administering a balanced coastal management program.

Sincerely,

A handwritten signature in dark ink, appearing to read "David C. Treen". The signature is fluid and cursive, with a large initial "D" and a stylized "T".

David C. Treen

DCT/db

STATE OF LOUISIANA
EXECUTIVE DEPARTMENT
BATON ROUGE

EXECUTIVE ORDER NO. 30-15

WHEREAS, the state and local Coastal Resources Management Act of 1978 created the Louisiana Coastal Zone Management Program; and

WHEREAS, Louisiana Revised Statute 49:213.3(7) vests the authority of this Act in the Secretary of Transportation and Development; and

WHEREAS, Louisiana Revised Statute 49:213.21 empowers the Governor to transfer, by executive order, this authority to the Secretary of the Department of Natural Resources or to the Secretary of the Department of Wildlife and Fisheries; and

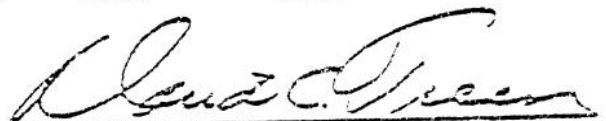
WHEREAS, there is a need to consolidate the environmental resource responsibilities within the state, thereby increasing the efficiency of management and assure conformity of action between environmental agencies; and

WHEREAS, there is a need to expedite and streamline the permitting process,

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the power vested in me, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby transfer The Louisiana Coastal Zone Management Program, as contained in Louisiana Revised Statute 49:213.1 through 49:213.21, from the Office of the Secretary of the Department of Transportation and Development to the Office of the Secretary of the Department of Natural Resources.



IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 8th day of July, A.D., 1980.


GOVERNOR OF LOUISIANA

ATTEST BY
THE GOVERNOR:



SECRETARY OF STATE

A) WHY LOUISIANA NEEDS COASTAL ZONE MANAGEMENT

Louisiana's coastal zone is valuable to the state's well-being and future. This immense and diverse region supports many activities contributing to the pulse of the state's economy and the life of its people.

Louisiana's coastal area is rich in many resources. In 1977, commercial landings of fish and shellfish in Louisiana coastal and inland waters were 920.1 million pounds, valued at \$138.8 million. Fur-bearing animals such as muskrat, mink, and nutria resulted in a fur catch valued at \$12.5 million in the 1976-77 season. In 1974, agricultural products sold in the coastal parishes had a total market value of \$336 million. These and other renewable resources are dependent on the maintenance of our remarkable coastal environment. For example, the relationship between wetlands and fisheries yields has been well documented.

The development of coastal Louisiana is also necessary. The economy and tax base of the state benefit a great deal from the recovery of many nonrenewable resources including oil and gas. Louisiana is a major petroleum and natural gas producer. In 1976, coastal Louisiana produced an estimated 259,459,000 barrels of crude oil. Including the federally controlled offshore, Louisiana ranked second in the nation in oil production, producing 19 percent of the nation's total.

Yielding up vast nonrenewable as well as renewable resources, Louisiana's coastal environment is being stressed. Land loss, at an average annual rate of 16.5 square miles per year, fresh and salt water imbalances, and intense user activity are among the major problems presently facing coastal Louisiana. Coastal zone management will provide the means through which the state can address these large scale environmental problems. Without such a program, the state's approach can only be piecemeal and haphazard.

The purpose of coastal zone management is to balance conservation and development in the coastal zone. The two need not be in opposition in coastal Louisiana. Only a management program which can successfully balance the two will serve the future of Louisiana.

The reestablishment of local and state leadership concerning the management of coastal resources is another major benefit of adopting a federally approved coastal zone management plan. In recent years, many federal agencies, including the U.S. Army Corps of Engineers and the Environmental Protection Agency, have been granted increasing authority over Louisiana's wetlands. This has resulted in a diminished role for local and state governments.

Under the federal consistency provision of the federal Coastal Zone Management Act, federal actions affecting coastal areas must be consistent with the state's approved coastal plan. Related to the push for more local and state control, former Governor Edwards explained in a letter to former Colonel Early J. Rush, III, of the Corps of Engineers, "I believe it is essential that the State of Louisiana pursue additional avenues for securing more state and local control over decisions affecting the use of wetlands in south Louisiana."

Coastal zone management offers Louisiana an opportunity to recapture a leadership role in the management of its coastal zone as well as a means to ensure that the benefits this valuable area provides will be maximized for this and future generations.

B) LOUISIANA'S RESPONSE - ACT 361

Louisiana's response to the pressures and problems of the coastal zone came in the form of legislative action. The basis for a comprehensive coastal policy, planning, and management program became law in Louisiana in the summer of 1978 when Act 361, the State and Local Coastal Resources Management Act of 1978, was signed. Despite a tangled legislative battle in which some 400 amendments to the bill were proposed, the CZM package which finally emerged from the Legislature is one which enabled Louisiana to continue receiving federal funds under the provisions of the Coastal Zone Management Act of 1972. More importantly, the Act provided the mechanism by which competing and conflicting coastal uses can be coordinated and balanced by state and local governments. Act 361 provides for the following:

1. General Policy

Seven broad statements of public policy preface the substantive provisions of the Act and point to the divergent interests sought to be accommodated by the CZM legislation. While seeking to protect and, where feasible, restore or enhance coastal resources, the state also seeks to develop, support and encourage multiple use of the resources, while maintaining and enhancing renewable resources, providing adequate economic growth and minimizing adverse effects of one resource use upon another without imposing any undue restriction on any user.

2. Guidelines

In order to implement the general policies, guidelines developed under the Act are the key to determining the parameters of the coastal management program. The guidelines must be followed in the development of state and local programs and will serve as the enforceable criteria for the granting, conditioning, denying, revoking, or modifying of coastal use permits.

3. Boundary

Act 361 also defines the boundary of the coastal zone. The coastal zone is bounded on the east and west by the respective Mississippi and Texas borders, on the south by Louisiana's three mile seaward boundary, and on the north generally by the Intracoastal Waterway running from the Texas-Louisiana state line then following highways through Vermilion, Iberia and St. Mary parishes, then dipping southward following the natural ridges below Houma, then turning northward to take in Lake Pontchartrain and ending at the Mississippi-Louisiana border. Recent amendments to Act 361 expanded the coastal area in certain portions of Lafourche, St. James, St. Charles, St. John the Baptist, St. Mary, and Livingston parishes.

4. Special Management Areas

Act 361 provides for the establishment of areas of particular concern and areas for preservation and restoration. Act 361 states that any person or governmental body can nominate an area as a special management area if it can be shown that the area has unique and valuable characteristics that need special management. Louisiana also has named two areas of particular concern: the Louisiana Superport and Marsh Island. The Louisiana Superport was designated for special management because of its unique problems and the existence of its environmental protection program. Marsh Island was chosen because it has an important role as a wildlife refuge and barrier island.

In 1979 two amendments to Act 361 were passed which relate to special management areas. One amendment directed the Secretary of the Department of Transportation and Development to identify deteriorating coastal areas and provide steps to protect them including a pilot program to create artificial barrier islands. A Second amendment calls for preparation of a state plan for freshwater and sediment diversion projects to offset land loss and saltwater encroachment in coastal wetlands. These two amendments will further help the LCRP enhance the state's coastal resources.

5. Authorities and Organization

Act 361 provides the basic authority, organization, and structure for the state program. Act 361 defines those uses that are to be managed and provides direction and goals for development of guidelines that will be used in making permit decisions and approving local programs. The organizational structure in Act 361 directed the Secretary of

Department of Transportation and Development to administer the program and develop the guidelines in conjunction with the Secretaries of DWF and DNR. The Louisiana Coastal Commission plays a major role in development of the guidelines and the permitting process.

In recent years, the State of Louisiana has undertaken the cumbersome task of reorganization. Foreseeing the day when the coastal management program might be subject to reorganization efforts, Act 361 empowered the Governor to transfer authority for the program. Section 213.21 of the Act provides that the authority originally vested in the Secretary of the Department of Transportation and Development might be transferred by the Governor's order to the Secretary of the Department of Natural Resources or the Secretary of the Department of Wildlife and Fisheries.

On July 8, 1980, Governor David C. Treen transferred the authority for the Louisiana Coastal Resources Program from the Secretary of DOTD to the Secretary of DNR by Executive Order 80-15. The move was made to consolidate environmental resource responsibilities within the State and the need to expedite and streamline the permit process. DNR is now the lead agency for implementation of the Louisiana Coastal Resources Program.

6. National Interest

The United State Congress, in enacting the Coastal Zone Management Act of 1972, found that, "...there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone." The Act further requires that state adequately consider the national interest in the development and implementation of approved state coastal management programs. The Louisiana Coastal Resources Program has utilized full participation by federal agencies in determining the national interest in Louisiana's coastal zone. Louisiana recognizes that coastal issues and concerns reflect a national interest in national defense, energy and other facility siting and certain resource protection issues such as wetlands management and the protection of rare and endangered species.

C) PROGRAM COMPLETION PROCESS

An intensive review process has been utilized in the development and completion of the LCRP (see Table 2). Such a review process has made certain that the final program reflects the feelings and concerns of the people of Louisiana and other interested and affected parties and provides for a balanced approach to economic development and coastal resource protection.

TABLE 2 DATES FOR PROGRAM COMPLETION PROCESS

		<u>Date of Issuance</u>	<u>Hearing(s) Date</u>
I.	Hearing Draft	March 12, 1979	April 17, 18, 1979
II.	Draft Environmental Impact Statement	September 15, 1979	October 30, 31; November 1, 1979
III.	Final Environmental Impact Statement	August, 1980	No Hearing
IV	Program Approved	Late September, 1980	N/A

The first and second step of this review process, the Hearing Draft, and DEIS, have already been completed. The Hearing Draft was distributed in March, 1979 and two public hearings were held in April. This draft presented a discussion of the issues of the Louisiana coastal zone, a statement of proposed LCRP policies, a description of the uses subject to the management program, a description of the special management areas, and a discussion of the legal authorities.

The Draft Environmental Impact Statement (DEIS) was prepared based on all written comments received, testimony presented at the hearings, and subsequent meetings with numerous public and private interest groups. The DEIS included the revised management program based on public comment on the Hearing Draft and the environmental impact assessment of the management program. The DEIS was distributed in September, 1979, and public hearings were held in October and November to receive comments from persons interested in the Louisiana Coastal Resources program.

After careful analysis of all comments, this Final Environmental Impact Statement (FEIS) has been prepared for adoption by DNR and OCZM and approved by the Governor. The FEIS was issued by OCZM in August, 1980.

D) GUIDE TO THE FINAL ENVIRONMENTAL IMPACT STATEMENT

This Final Environmental Impact Statement is composed of appropriate revisions to the DEIS, an assessment of the impact of the Coastal Resources Program, and a description of findings regarding the management program by the Office of Coastal Zone Management. This document is divided into four parts.

Part I has been prepared by the Office of Coastal Zone Management. Included here is a discussion of the federal Coastal Zone Management act, a summary of federal concerns and a description of how this

program meets the requirements of the federal Coastal Zone Management Act.

Part II has been prepared by the Louisiana Department of Natural Resources and contains an executive summary and seven chapters. Chapter I provides a description of the coastal zone and its people. It also summarizes the coastal problems, issues and conflicts confronting Louisiana. Chapter II state the LCRP policies and objectives in response to the need for a comprehensive and balanced state strategy to address the problems and issues identified in the previous chapter. This chapter also contains the state's coastal use guidelines. Chapter III identifies the boundaries of the coastal zone subject to the management program. Chapter IV describes the basic authorities and the organizational structure for implementation of the program. Chapter V discusses areas that require special management techniques to develop and preserve their unique characteristics. Chapter VI provides a description of the consideration of the national interest. This chapter also addresses federal consistency and uses of regional benefit. Chapter VII contains a discussion of program objectives and action items.

Parts III, IV, and V of the Final Environmental Impact Statement present an explanation of certain alternatives to the proposed action, description of the affected environment, and a discussion of environmental consequences. These parts have been prepared by OCZM to meet the requirements of that National Environmental Policy Act. Part VI includes the appendices of the document. Appendix a contains references; Appendix b is a copy of Act 361; Appendix c-1 contains the rules and procedures for coastal use permits; Appendix c-2 contains the rules and procedures for the development, approval, modification, and periodic review of local coastal management programs; Appendix c-3 contains procedures used for conducting public hearings; Appendix c-4 establishes procedures used by Louisiana for the designation, utilization and management of special areas and for establishing guidelines and priorities of uses for each area; Appendices d, e and f contains special planning elements of the management program related shoreline access and protection, energy facility planning and shoreline erosion; Appendix g summarizes public involvement in the LCRP; Appendix h contains the special elements of the management program relating to federal consultation and continuing consultation with federal, state, areawide, regional, and local agencies and plan coordination; Appendix i provides an annotated bibliography of the LCRP work products; Appendix j provides the revised boundary for the coastal zone; Appendix k lists the membership of the Louisiana Coastal Commission; Appendix l provides a summary description of the state constitutional and statutory provision included in the LCRP; Appendix m contains additional definition; Appendix n contains memoranda of understanding with state agencies; Appendix o is the draft memorandum of understanding with the Corps of Engineers; and Appendix p contains the responses to comments on the draft environmental impact statement. This last Appendix is printed as a separate document..

CHAPTER I

OVERVIEW

A) INTRODUCTION

Louisiana's coastal zone and its people support an economic system that extends beyond the state's boundary to the nation and the world. The coastal region is remarkable for the magnitude and variety of its natural and human resources. The petroleum and natural gas reserves of the Louisiana coastal zone provide a significant share of the nation's energy, with the Outer Continental Shelf beyond Louisiana contributing the largest oil and gas contribution of any such area in the United States. The estuarine system produces 28 percent of the nation's fishery harvest; the soils and climate produce much of the country's sugar and rice; and the Mississippi River and Gulf Intracoastal Waterway serve as vital commercial arteries for much of the interior of the United States. It is an area of ever increasing activity with more and more stress being placed on its valuable coastal resources.

The diverse nature of the coastal zone and the activities which are conducted within it have made the area one of the most complex areas in the nation to understand and manage. The coastal and marine resources of the Louisiana coastal zone, including living and non-living resources, recreation, fish, wildlife, estuarine, and water and land resources, are values of prime importance to the people and economy of the state and the nation. Expanding usage of the coastal zone for industrial and commercial development, water resources development, recreation, tourism, urbanization and transportation are creating conflicts among the multiplicity of uses which are carried out within it. These conflicts, if not reconciled, may diminish the natural benefits which the coastal zone provides to man. This chapter provides a description of the coastal zone and its people and summarizes the coastal problems, issues, and conflicts confronting Louisiana.

B) DESCRIPTION OF THE NATURAL ENVIRONMENT

The coastal zone of Louisiana is a unique area comprising 5.3 million acres (see Figure 1). The coastal zone is the product of the Mississippi River which over the past 5,000 years has shifted across the southern part of the state from west to east as its might and muddy waters have rolled out to the Gulf. Seven Mississippi River delta systems during this period have caused considerable variation in the physiography of coastal Louisiana. The soils deposited by the Mississippi into the Gulf of Mexico

have been reworked by winds, tides, currents, and hurricanes. As a result of these River and Gulf processes a wide variety of land features have been formed in the coastal zone.

The shifting of the course of the Mississippi River over time has resulted in the creation of alluvial or natural levee ridges, with relatively firm soils and high elevations. These areas have provided spines along which development has traditionally occurred.

Between the natural levee ridges are found vast wetland basins comprising about 25 percent of the wetlands in the entire nation. These wetland areas vary in salinity and include forested wetlands, fresh water marsh, intermediate marsh, brackish marsh and saline marsh. These wetlands areas provide untold value to the state and the nation by providing habitat for numerous species of both commercial and recreational value, vital nutrients for the estuarine food web, a buffer against storm surges, assimilation of pollutants, and recreation values. As shown in Figure 1, many of these wetland areas have been extensively modified by leveeing, draining, filling or dredging in order to provide for urbanization, navigation, flood protection and other purposes.

These vast wetland areas and the lakes, bays, tidal channels, and other coastal water features make the Louisiana coastal zone one of the largest and richest estuarine regions in the world. The warm, humid climate and mixing of fresh and salt water is favorable for rapid growth of vegetation and wildlife. The Louisiana estuaries are major breeding and nursery grounds for a majority of the commercially and recreationally important fish and shellfish.

Fragile barrier islands are found at the seaward edge of the coastal zone. Barrier islands are found at the seaward edge of the coastal zone. Barrier islands such as Grand Isle, and the Timbaliers provide recreational value, act as buffers to storm surges, and protect the integrity of the estuarine areas by restricting salt water intrusion.

C) RENEWABLE RESOURCES

Fisheries

The coastal marshlands of the state support aquatic life and provide Louisiana with an abundant renewable resource. Important recreational and commercial fish yields in Louisiana include shrimp, oysters, menhaden, crabs and crawfish. Shrimp are in greater concentrations in Louisiana's estuarine waters than anywhere else along the east and gulf coasts and, although many species of commercially and recreationally valuable fish such as the menhaden and speckled trout are frequently harvested offshore, the majority of such species are nevertheless dependent on the estuaries. The menhaden's young, for example, migrate from offshore areas to grow and mature in the shallow estuaries of the coast.

LOUISIANA COASTAL VEGETATION



PLEISTOCENE DEPOSITS

Terrace lands above five feet in elevation with upland vegetation. The coastal zone boundary is close to the juncture of the Pleistocene terrace and coastal wetlands. Upland vegetation such as pine (*Pinus* sp.) and oak (*Quercus* sp.) is characteristic in Southeastern Louisiana. In Southwestern Louisiana, coastal prairie and cultivated rice fields are predominant. Isolated segments of Pleistocene deposits occur in certain areas within the coastal zone where "islands" extend into the marsh or swamp. Examples are Hackberry Island, Pine Island, Avery Island and Bear Island.



ALLUVIAL RIDGES

Natural levees formed by deltaic sedimentation. These ridges mark active and abandoned river distributaries of various courses of the Mississippi and Atchafalaya Rivers and the main courses of the Pearl and Calcasieu Rivers.

The native woody vegetation of the alluvial ridges is live oak (*Quercus virginiana*) and other bottomland hardwoods. Most of these hardwoods have been cleared and replaced with cropland and urban areas. The remaining bottomland hardwood forest is located primarily on the flanks and distal ends of the alluvial ridges.

Other areas in the coastal zone with woody vegetation are cheniers, beach ridges, salt domes, indian middens and spoil areas.



FORESTED WETLANDS (CYPRESS-TUPELO GUM SWAMP)

Bald cypress (*Taxodium distichum*) and tupelo gum (*Nyssa aquatica*) are dominant in the freshwater swamps. The swamp forest occurs in the upper ends of the interdistributary basins and flanks the alluvial ridges. The swamp vegetative zone is concentrated around Lake Maurice, west of Lac Des Allemands and in the Atchafalaya Basin.

NON-FORESTED VEGETATED WETLANDS (MARSH)

The marshes of the coastal zone are dominated by the grass-sedge-rush community. Due to the combined interaction of elevation, water depth, and increasing salinity, four zones of marsh vegetation exist in arcuate belts proceeding toward the coast. Transitional areas exist due to the gradual blending of marsh vegetation between zones. Certain species may occur in two or more zones but usually are dominant in only one.



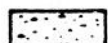
Fresh Marsh - Typical vegetation is maiden cane (*Panicum hemistemon*), water hyacinth (*Eichornia crassipes*), pennywort (*Hydrocotyle* sp.), pickerelweed (*Pontederia corata*), alligatorweed (*Alternanthera philoxeroides*), cattail (*Typha* sp.) and bulltongue (*Sagittaria* sp.).



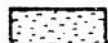
Intermediate Marsh - Typical vegetation is wiregrass (*Spartina patens*), deer pea (*Vigna repens*), bulltongue, wild miller (*Echinochloa walteri*), bullwhip (*Scirpus californicus*) and sawgrass (*Cladium jamaicense*).



Brackish Marsh - Typical vegetation is wiregrass, three-cornered grass (*Scirpus olneyi*), coco (*Scirpus robustus*), saltgrass (*Distichlis spicata*) and black rush (*Juncus roemerianus*).



Saline Marsh - Typical vegetation is oystergrass (*Spartina alterniflora*), glasswort (*Salicornia* sp.), black rush, saltgrass, saltwort (*Batis maritima*) and black mangrove (*Avicennia nitida*).



MODIFIED WETLANDS

These are areas of marsh or swamp that have been leveed, ditched, filled or drained. Surface features and hydrology have been altered or restricted to the degree that natural wetland processes may no longer occur. These areas may be completely drained (e.g. northern portions of Orleans and Jefferson Parishes), partially drained (e.g. various drainage districts), only slightly modified (e.g. marshes north of Lake Lery) or flooded and impounded (e.g. abandoned agricultural reclamation projects and refuge waterfowl pools). These marsh or swamp areas were modified for the purposes of urbanization, flood protection, navigation, farming, mining, spoil disposal, or waterfowl management.

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In 1977, reported commercial landings of fish and shellfish in Louisiana's coastal and inland waters were 920.1 million pounds, which produced a dockside value of \$138.8 million. The volume of the 1977 catch was down 312 million pounds or 25 percent from the 1976 catch but the two years had about the same value. The sharp decline in menhaden landings caused the drop in volume, while increased landings of shrimp kept the total value at the 1976 level.

Louisiana has led all states in volume of landings and ranked third in dock-side value. In the commercial fisheries of Louisiana, menhaden led in volume of landings and ranked second in value (756.7 million pounds, \$28.9 million); shrimp followed with a near record catch of 104 million pounds and record value of \$87.2 million. Oysters ranked third in value (\$10.4 million); blue crabs (hard, soft and peeler) were fourth (\$4.3 million) (National Marine Fisheries Service, 1979).

Commercial fishing, primarily a coastal activity, employed 14,382 people full time in 1972. Louisiana is the third ranking state in fisheries employment.

Louisiana's high fisheries yield, 28 percent of the nation's total, is related to the state's vast wetland acreage, 25 percent of the nation's total (Morning Advocate, 1979). Studies of fisheries production and wetland acreage demonstrate a positive relationship between the two. Figure 2 shows the relationship between fisheries yields and intertidal areas for the Gulf of Mexico (Craig, et al., 1979).

Hunting

The coastal marshes also provide a home for other renewable resources important to Louisiana's economy. Fur-bearing animals, such as muskrat, mink, and nutria are highly sought by many coastal residents, resulting in a fur catch which amounted to \$12.5 million in the 1976-77 season (Louisiana State Planning Office, 1977).

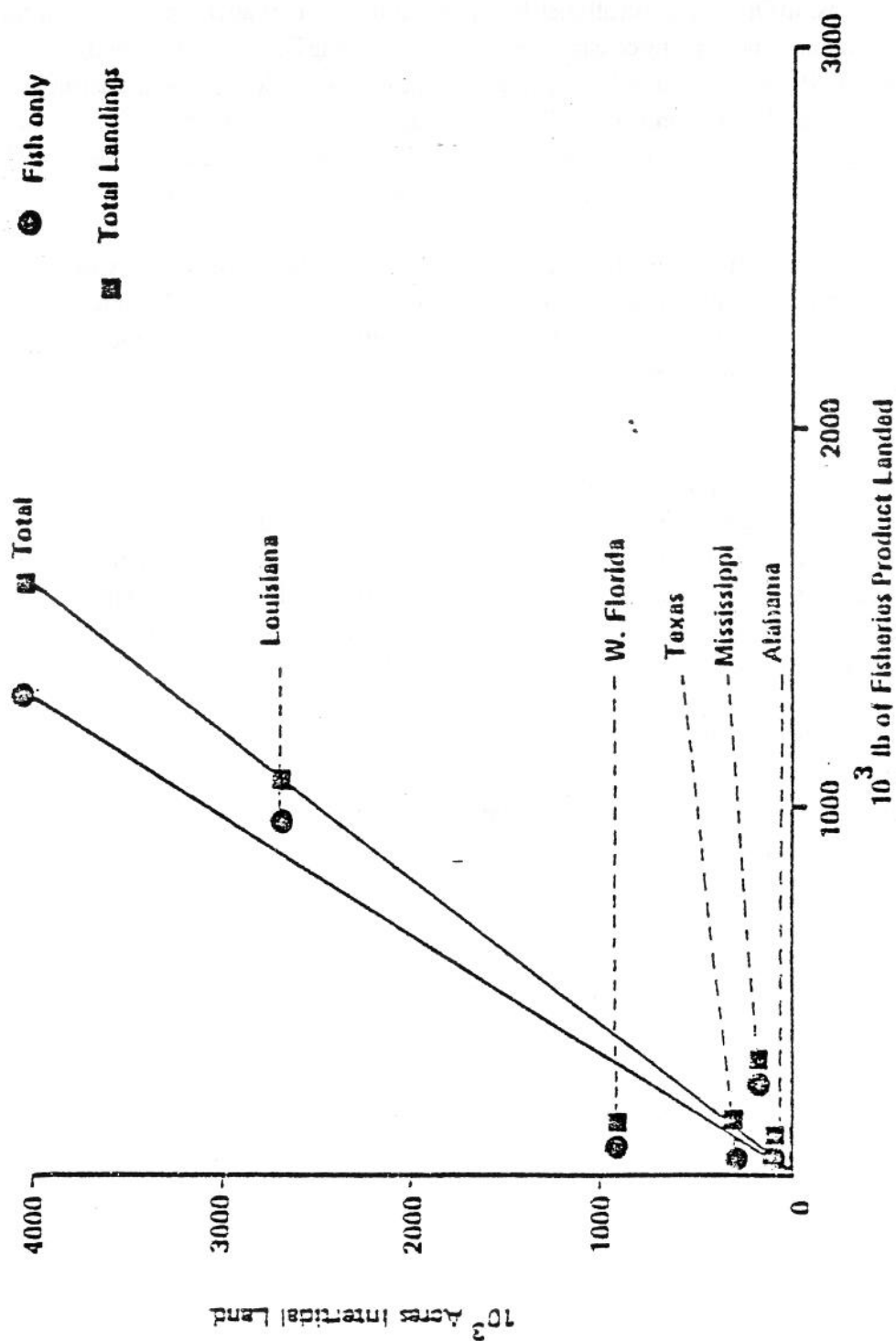
Wildlife depends for survival on adequate food, water and shelter—not only for protection from the elements and enemies, but as an area conducive to reproduction and the successful growth of the young. Deprived of such a habitat, a species' chances for survival are negligible.

In coastal Louisiana, studies of wildlife indicate that these animals are dependent on suitable and available habitat above all else. For example, observed decreases in rabbit populations have been attributed to the destruction of their habitat, rather than hunting pressure. Similarly, the primary threat to the squirrel population has been identified as forest clearing, rather than hunting pressure.

Agriculture

Rice, sugarcane and soybeans are the main crops grown in the coastal region. In 1974 agricultural products sold in the coastal parishes had a total market value of \$336 million. In the same year the value of forestry products was over \$707,000 for the coastal parishes.

RELATIONSHIP BETWEEN FISHERIES YIELDS AND INTERTIDAL AREAS FOR THE GULF OF MEXICO



SOURCE: N. J. CRAIG, R. E. TURNER AND J. W. DAY JR., "CUMULATIVE IMPACT STUDIES IN LOUISIANA COASTAL ZONE: EUTROPHICATION AND LAND LOSS", CENTER FOR WETLAND RESOURCES, LOUISIANA STATE UNIVERSITY, JUNE 1977.

FIGURE 2

Lands suitable for agricultural production have, in recent years, come under pressure from expanding urban areas. In Orleans parish all such land is not utilized for urban purposes. Urban expansion is spilling into agricultural land in many coastal communities bordering Bayou Lafource and the Mississippi River in Plaquemines Parish. This trend is expected to continue as residential and industrial pressure is placed on agricultural land (Davis and Gary, 1975). For example, residential growth in Jefferson Parish is expected to consume 7,750 acres, the greatest portion of the estimated acreage needed for all uses by 1985. Much of this land is expected to come from agricultural land (Coastal Resources Program, 1977).

Farmlands are classified by the U.S. Department of Agriculture, Soil Conservation Service, as "prime farmland" or "farmland of statewide importance". Prime farmland is land best suited for producing food, feed, forage, fiber, and oilseed crops. It has the soil quality, growing season, and moisture supply needed to produce sustained high yields of crops economically, when treated and managed according to modern farming methods.

It does not have a serious hazard, nor is it subject to flooding. Prime farmland consists mainly of level or slightly sloping soils that are well suited to large multirow farming equipment. Farmland of statewide importance is land, in addition to prime farmlands, that is important in the production of food, feed, fiber, forage, and oilseed crops. These lands are important to agriculture in Louisiana, yet they exhibit some properties that exclude them from prime farmland. Examples of such properties are erodibility, occasional flooding, and droughtiness (State Planning Office, 1977-78).

It has been estimated that 2,500,000 acres in Louisiana can be classified as prime farmland. Roughly half of this is now being farmed (Warren, 1980). Prime farmland acreage by parish was not available for every coastal parish. Table 3 presents agricultural acreage for coastal parishes, including areas outside of the coastal zone boundary.

TABLE 3

AGRICULTURAL ACREAGE FOR COASTAL PARISHES

(Acreage Figures are for the Entire Parish)

Calcasieu	363,246	St. Bernard	5,696
Cameron	97,942	St. Charles	30,077
Iberia	118,957	St. James	55,279
Jefferson	22,594	St. John the Baptist	29,339
Lafourche	129,521	St. Mary	93,681
Livingston	83,505	St. Tammany	104,891
Orleans	7,381	Tangipahoa	172,633
Plaquemines	29,289	Terrebonne	69,859
		Vermilion	377,722

(Source: Burk and Associates, Inc. 1978).

D) NONRENEWABLE RESOURCES

Minerals

Minerals dominate nonrenewable resource production in the coastal zone. Louisiana produced an estimated 259,459,000 barrels of crude oil. In addition, an estimated 271,197,000 barrels were produced in federal waters adjacent to Louisiana's state waters. Including the federally controlled OCS, Louisiana ranked second in the nation in oil production, producing 19 percent of the nation's total. The value of Louisiana's 1976 oil production was estimated to be nearly \$6 billion.

Louisiana produced an estimated 6,920,771 million cubic feet of natural and casinghead gas in 1976. This figure, which represents 36 percent of the nation's total, includes the gas produced in the federally controlled OCS (Louisiana State Planning Office, 1979).

Employment in the 17 coastal parishes based on petroleum and natural gas production totalled 46,208 (Renner, 1976). Employment in the coastal parishes resulting from federal OCS activity amounted to 20,751 in 1974 (Mumphrye, et al., 1977).

Two presently discernible trends regarding Louisiana's oil and gas production will have serious economic consequences for the state. First, oil and gas production in the state is declining. Excluding federally owned offshore production, Louisiana's petroleum production has steadily declined, as have known reserves, since 1970. Secondly, offshore activity, which in 1947 began only a few miles off Louisiana's coast, can be expected to move farther offshore into federal waters. As this occurs, the oil and gas revenue the state receives from activities within state jurisdiction will decline.

Other nonrenewable resources include sulfur, salt, sand and gravel. In 1975, Louisiana produced 2,672,000 long tons of sulfur. Production for 1976 amounted to 13,318,000 short tons of salt and 15,900,000 short tons of sand and gravel (Louisiana State Planning Office, 1977).

E) POPULATION

More than 1.1 million people live in Louisiana's coastal zone. The population of the coastal zone, now 31 percent of the total state population is growing at a faster pace than the rest of the state. For example, St. Tammany Parish grew by 37 percent between 1970 and 1977. Similarly, Livingston Parish grew by 32 percent; Jefferson Parish grew by 25 percent; and St. Bernard Parish grew by 20 percent in the same period (Louisiana Tech University, 1979).

The people and culture of the coastal zone also differ from other parts of the state and nation. Many of the residents of the coastal zone are descendants of the original Acadians who came to southern Louisiana from a section of Canada then known as Acadia, now Nova Scotia, under

coercion of the British in 1755. As a result of this massive immigration, French culture has influenced the style of life in the coastal zone. The Louisiana variety of French is spiced like its gumbo, and locally those of French ancestry are known as "Cajuns." But regardless of parentage, coastal residents partake in the Cajun culture with its frequent festivals and its "fais-do-do", a friendly gathering with music and much dancing. Many people speak Cajun French, and Cajun folksongs are still sung.

Folklore from southern Louisiana is rooted in the historical legacy of the New World. Many versions circulate of the story of the legendary lovers, Evangeline and Gabriel, who were separated on the journey from Nova Scotia. Waterways such as Bayou Teche, Bayou Lafourche, the Atchafalaya River, the Mississippi River and the Vermilion River mark the locations of much of the folklore and history of coastal Louisiana because historically the many rivers and bayous of the state have provided easy transportation for the inhabitants of the state. Louisiana's water resources have also traditionally provided recreation for people in the state and the entire southern region of the United States.

The Louisiana Department of Culture, Recreation, and Tourism estimated that recreation and tourism brought \$2 billion to Louisiana's economy in 1977 (Department of Culture, Recreation and Tourism, 1979). The economic impact of travel in the 17 coastal parishes is tremendous. Travel expenditures for 1976 amounted to \$1.3 billion, 73 percent of the state's total. State tax receipts derived from travel in the coastal parishes amounted to \$52 million (U.S. Travel Data Center, 1978).

F) WATERBORNE TRANSPORTATION

Waterborne transportation is one of the major employment sectors in the coastal zone. Maritime related industries are estimated to employ over 50,000 people.

The Port of New Orleans, the first port to be created by the Louisiana Legislature, is today one of the nation's largest. The growth of tonnages shipped from the port has been spectacular. In 1920, the Port of New Orleans, shipped 2.1 million short tons. In the next ten years the tonnage increased sixfold to 12.7 million tons. The tonnage rose to 19.8 million tons by 1940; to 35.1 million tons in 1950; 56.7 million tons in 1960; at the beginning of this decade, the figure stood at 123.7 million tons. Just six years later—at the end of 1976—the port surpassed the 150 million ton mark for the first time in history. The actual figure was 155.9 million tons, an unprecedented increase of 15.5 million tons over the previous year (Port of New Orleans, 1978-79).

Although there are numerous ports located throughout the coastal zone, the major concentration of navigation facilities are located in the Orleans-Baton Rouge metropolitan area (NOBRMA). The navigable waterways of this area are divided into 10 major reaches (or stream segments). Four of these are maintained at depths to accommodate shallow-and deep-draft traffic; the other six segments serve shallow-draft commerce only. The four deep-draft segments include: (1) Mississippi River-Gulf Outlet, (2) Mississippi River (New Orleans to Head of Passes), (3) Mississippi

River (Baton Rouge to upper limits of Port of New Orleans), and (4) Inner Harbor Navigation Canal (Industrial Canal). The major component of the shallow-draft navigation network is the Gulf Intracoastal Waterway (GIWW), which extends east-west across the coastal zone. The Barataria Bay Waterway, Bayou Lafourche and Lake Pontchartrain navigation systems make up the remaining three stream segments.

Waterborne commerce on the 10 major navigation reaches of the region totalled 466.5 million tons in 1974. Four out of every ten tons of commerce were moved by oceangoing vessels on the four deep-draft and shallow-draft reaches included petroleum, grains, industrial chemicals, and general cargo. A summary of waterborne commerce in Louisiana is shown in Table 4.

TABLE 4

LOUISIANA PORTS:
WATERBORNE COMMERCE OF RIVERS, BAYOUS AND WATERWAYS

1. Total Navigable Waterways in Louisiana - 6,905 miles
2. Total Waterborne Commerce Tonnage (foreign and domestic) as reported by Corps of Engineers, U.S. Army - 1976

Total U.S.	1,835,007,000
Baton Rouge to Gulf	476,446,000
Gulf Intracoastal Waterway	78,070,000
Rivers (other than Miss.)	12,965,000
Bayous	10,105,000
Other Waterways	9,397,000
Total Louisiana Waterways	586,983,000 (includes through traffic)
Louisiana Percent of U.S.	32%*

*approximately 400,000,000 tons or 22% handled through Louisiana ports

3. Total Waterborne Commerce Tonnage as reported by the Corps of Engineers - 1976

New Orleans	155,990,000	2 nd in U.S.
Baton Rouge	66,703,000	4 th in U.S.
Lake Charles	20,221,000	27 th in U.S.

4. Total Foreign Waterborne Trade Tonnage as reported by the U.S. Department of Commerce - 1977

Total U.S.	927,647,000
Louisiana Ports	168,981,000
Louisiana Percent of U.S.	18%

5. Total Foreign Waterborne Trade Value - 1977

Total U.S.	\$172,844,000,000
Louisiana Ports	\$ 23,849,000,000
Louisiana Percent of U.S.	14%

6. Total Grain Shipments in Bushels as reported by the U.S. Department of Agriculture - 1977

Total U.S.	3,367,393,000
Louisiana Ports	1,486,776,000
Louisiana Percent of U.S.	14%

7. Economic Impact of Foreign Trade generated by Louisiana Ports (Taken from a preliminary report of the U.S. economy and port industry as constructed by the Port Authority of N.Y. and N.J. Some estimates from the computer for present impact are: each 600 tons of foreign trade (except petroleum) equals one job; the direct impact of each ton (except petroleum) is \$44; the economic impact, direct and indirect, is \$70 per ton).

Total Louisiana Foreign Trade (except petroleum): 129,000,000 tons

129,000,000 tons divided by 600 equals - 215,000 jobs

129,000,000 tons times \$44 equals - \$5,670,000,000

129,000,000 tons times \$70 equals - \$9,030,000,000

8. Louisiana Waterways Tonnages (except New Orleans, Baton Rouge and Lake Charles). Those in or partially in the coastal zone are marked with asterisks(*).

BAYOU PORTS:

*Barataria	1,948,000
Big and Little Pigeon	194,000
*Bonfouca	61,000
*Petit Anse and Tigre and Carlin	1,517,000
Des Cannes and Nezpique	998,000
*Lacarbe, Dulac and Grand Caillou	739,000
*Dupre	151,000
*Freshwater	183,000
*Johnson Bayou	599,000
*LaLoutre and St. Malo and Yscloskey	155,000
*Lacombe	2,000
*Lafourche	1,535,000
*Little Caillou	944,000
Plaquemine Brule	10,000
*Segnette	5,000

Teche	533,000
*Terrebonne	467,000
*Tchefuncte and Bogue Falaya	64,000

TOTAL

RIVER PORTS:

*Atchafalaya	9,285,000
*Mermentau	1,088,000
Ouachita River	1,351,000
*Pearl River	3,000
*Tickfaw, Blood and Ponchatoula River	13,000
*Vermilion River	1,225,000

TOTAL	12,965,000
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OTHER WATERWAYS:

*Franklin Canal	9,000
*Houma	2,599,000
*Lake Pontchartrain	5,389,000
*Pass Manchac	474,000
Vinson Waterway	3,000
*Empire to Gulf	923,000

TOTAL	9,397,000
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*GULF INTRACOASTAL WATERWAYS	7 8,070,000
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GRAND TOTAL110,537,000

SOURCE: Corps of Engineers, U.S. Army - 1976

9. List of Deepwater Ports and Port Commissions - Port, Harbor and Terminal Districts in the Coastal Zone

1.	Board of Commissioners of the Port of New Orleans	New Orleans
2.	Greater Baton Rouge Port Commission	Baton Rouge
3.	Deep Draft Harbor and Terminal Authority, Board of Commissioners (Superport)	Baton Rouge
4.	Lake Charles Harbor and Terminal District	Lake Charles
5.	South Louisiana Port Commission	LaPlace
6.	Plaquemine Parish Port Authority	Point A La Hache
7.	New Iberia Port District	New Iberia
8.	Morgan City Harbor and Terminal District	Morgan City
9.	Abbeville Harbor and Terminal District	Abbeville
10.	Delcambre Port Commission	Delcambre
11.	Greater Lafourche Port Commission	Galliano
12.	St. Bernard Port, Harbor and Terminal District	Chalmette

13.	Livingston-Tangipahoa Parishes Port Commission	Albany
14.	Greater Jefferson Port Commission	Gretna
15.	St. Tammany Parish Port Commission	Slidell
16.	Terrebonne Port Commission	Houma
17.	East Cameron Port, Harbor and Terminal District	Grand Cheniere
18.	West Cameron Port, Harbor and Terminal District	Cameron
19.	West St. Mary parish Port Harbor and Terminal District	Franklin
20.	Mermentau River Harbor and Terminal District	Mermentau

G) FEDERAL, STATE, AND LOCAL ROLES IN MANAGING THE COASTAL ZONE

The Federal Role

Through congressional action and court decrees, several federal agencies are involved in coastal and wetlands management. Among federal agencies with legal jurisdiction affecting coastal Louisiana are the U.S. Army Corps of Engineers, the Environmental Protection Agency, the Bureau of Land Management, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Department of Transportation, and the Department of Energy.

Current federal decision-making authority for activities affecting wetlands lies principally with the U.S. Army Corps of Engineers through its Sections 10 and 404 permitting authority. Approximately 150 to 200 permits are handled per month the Corps in Louisiana. About 90 percent of the permits take 60 to 90 days to be processed. The remaining 10 percent, because of additional scrutiny, take longer, sometimes years.

The present permitting process generally involves several reviews of the application by the Corps followed by a preliminary statement of findings and a public notice. In addition, notices are sent to local governments and a number of state agencies for review, calling for "letters of no objection" from affected local governments and state agencies.

At the federal level, the Environmental Protection Agency, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service have the opportunity to review every Corps permit affecting wetlands. Depending on the nature of the permit, other agencies may also become involved. The final decision on whether to issue a permit is made by the Corps itself, subject to the legal requirements of the River and Harbor Act, the federal Clean Water Act and the Fish and Wildlife Coordination Act. The Corps is also bound to consider Presidential executive orders on wetlands and flood plains.

Conversion of Wetlands

Rapid urban growth of the coastal area has resulted in increased conversion of wetlands as the entire coastal area of Louisiana struggles to cope with the large number of new businesses and residences that support and maintain its growing economy.

It has been predicted that if the present draining and filling operations for urban and commercial development in the coastal area continue at the current rate, an additional 186,000 acres of the state's wetlands will be lost by the year 2000.

While benefits of economic growth associated with such wetland conversions are many, the natural values of the affected wetlands are irretrievably lost.

Several studies have, for example, estimated that an acre of marsh produces more food than an acre of carefully tended agricultural land. A recent study conducted at the Urban Studies Institute, University of New Orleans (Mumphrey, et al., 1978), for the Louisiana Coastal Resources Program estimated the value of an acre of wetland in Barataria Basin to be \$9,058.93. (Using this estimate for the value of an acre of wetland, the projected loss of 186,000 acres would add up to a \$1.7 billion loss.) Four activity categories were taken into consideration in deriving this estimate: commercial fishing, non-commercial fishing, commercial trapping, and recreation.

The researchers point out that these four categories do not include all the benefits provided by wetlands. There are many benefits for which a dollar estimate cannot be easily determined. For example, the marsh serves to protect man from the severity of storms by acting as a buffer. By absorbing the enormous energy of storm waves and acting as a water reservoir for coastal storm waters, the marsh reduces the severity of storm damage and flooding farther inland.

Another function of the marsh is waste treatment, which an estuary can accomplish up to a point without an appreciable reduction in water quality. Marshes and estuaries are particularly effective and suitable in tertiary treatment of waste - a costly process if carried out in artificial systems.

Recreational Demands

Coastal Louisiana is a "sportsmen's paradise" offering opportunities for fishing, hunting, boating and other water-related recreational activities, not to mention scenic beauty. Access to these recreational opportunities as well as the management and preservation of recreational areas will become a greater problem as the urban centers grow and the influx of tourists increases.

Commercial Fishing

Commercial fishing in Louisiana is an important industry contributing to the state's economy. Presently, the fishing industry faces a number of serious problems. First, the industry relies on continued maintenance of the estuarine fishery habitat. This issue is discussed in the section on resource problems entitled, "Natural Areas Wildlife and Fisheries Habitat": below.

Other problems facing the fishing industry in Louisiana include underwater obstructions and the lack of support facilities. Underwater obstructions cause costly damage to fishing gear as well as boats and more seriously, threaten the safety of those navigating our coastal waters. The availability of docking facilities and ice has not kept pace with fishermen's needs.

Extensive Dredging

Louisiana's coastal zone is criss-crossed by man-made canals. Both oil and gas development and the growth of ports have played a major role in creation of new waterways in Louisiana's coastal marsh. These canals change the hydrology of the natural marsh system and create spoil disposal problems. It is estimated that 25 percent of the 16.5 square-mile average annual net land loss during the past 30 years is the direct result of petroleum industry dredging (Gagliano, et. al., 1973) and (Gagliano and Van Beek, 1970). In addition, the construction of channels, such as the Mississippi River Gulf Outlet (MRGO), has increased saltwater intrusion. In the case of the MRGO, St. Bernard Parish officials estimate that thousands of acres of marshland have already been destroyed as a result of the construction of this channel. Smaller canals such as those dredged for oil and gas activity also create hydrological alterations. Direction drilling techniques, were feasible and practicable, can often reduce wetland loss associated with such access canals. Canals are often dredged to install pipelines and the necessity of dredging many new canals could be allayed through multiple use of pipeline corridors.

Waste Discharge

Sources of water pollution can be divided into two major categories. The first category is referred to as point source which includes such activities as sewage treatment and industrial waste treatment. The second category is referred to as non-point source and it includes runoff from such activities as housing, industrial development, and agriculture. The new adverse impact on the coastal waters and wetlands as a result of these two major sources is a reduction in the general water quality of the coastal region. This in turn presents a potential hazard to human health and the natural productivity of the region.

Waste Disposal

Coastal wetlands have often been used as waste disposal sites for solid stored liquid wastes. Leachates from both types of wastes. Leachates from both types of wastes can adversely affect water quality. Storage of hazardous or nuclear wastes in the coastal zone creates a potential for serious pollution incidents if the

integrity of such storage is breached by natural corrosion, weathering or natural hazards.

2.) Institutional Problems

Fragmented Governmental Process

Presently, a user has to make separate permit applications to numerous local, state, and federal agencies. This results in costly delays and uncertainty. There are overlapping jurisdictions with no one agency having the responsibility for effectively carrying out policy. This uncoordinated, splintered procedure has caused undue hardship on coastal residents (LACCMR, 1972).

Uncoordinated Research and Planning

Effective management of the coastal zone depends on a variety of scientific, technological, legal, institutional and socio-economic factors or capabilities. Among these are:

- a. Fundamental understanding of complex coastal zone ecosystems.
- b. Valid techniques for predicting economic and environmental impacts.
- c. Efficient institutional arrangements, regulations and enforcement provisions.

None of these capabilities or goals can be achieved without systematic knowledge derived from coordinated research and planning. At present there is an inadequate number of trained personnel. It is necessary that the informational effort maximize existing research and planning resources.

Fragmented Management Responsibilities

Twenty-three state agencies take part in resource management in varying degrees. Because of a lack of coordination, a great deal of overlap in jurisdiction and responsibility has existed. Perhaps more serious than overlapping responsibility are gaps in the management of wetlands. At present, state agencies frequently oversee only one resource or one facet of one resource to the neglect of the rest. The present system of management does not fully acknowledge that the coastal area contains exceedingly complex systems impacted by differing natural and manmade stresses (LACCMR, 1973:200-201). In addition, a lack of coordination among state agencies results in these agencies approaching federal agencies singly. This weakens the state's position in dealing with federal agencies.

Lack of Consideration of Cumulative Effects

The cumulative effect of numerous small scale uses is a critical consideration which is presently being neglected. Although one small individual

project may have little impact, many projects of the same site in a given area could have serious effects.

Lack of Overall Long-Range State Policy

Louisiana has lacked clear-cut state policies as to how coastal resources—air, water, minerals, fish, wildlife, recreation, and land—should be used in future years. Consequently, officials responsible for making complex decisions regarding use of coastal resources are making these decisions in a “policy vacuum” (LACCMR, 1973:200)

Lack of Public Awareness of Coastal Issues

Unfortunately, in the past many people have taken the state’s abundant resources for granted. Consequently, the citizens of Louisiana have not been able to maximize the use of these valuable resources. A recent statewide poll indicates, however, that 71 percent of the respondents said the state should have a coastal resources management program. Citizens in Louisiana have shown a growing interest in how decisions are made about the utilization of valuable coastal resources. A concerted effort needs to be made to inform Louisiana’s citizens of their coastal and marine heritage and resource dependence. Adequate funding and personnel is needed to accomplish this task (Lindsey, et al., 1974; and LACCMR, 1973:224-245).

3. Resource Problems

Subsidence

Wetland soils are susceptible to subsidence or sinking when drained. Subsidence in some areas is estimated to be as much as three or four feet. Although draining wetland areas costs society as a whole in terms of the benefits wetlands provide, costs associated with subsidence problems are borne by the individual landowners. The subsidence problem is common in Orleans, Jefferson, and St. Bernard Parishes where, for example, major structural repairs to a home may cost between \$1,200 and \$6,000 per home (Earle, 1975). One business firm repairs about one hundred homes a year at an average cost of \$3,000. It is estimated that the cost of developing a subdivision (exclusive of homes) in recently reclaimed wetlands is 50 percent greater than in areas of firmer soil (Mumphrey, et al., 1976). Subsidence problems also cause catastrophic results such as the gasoline explosions which occurred in Jefferson Parish.

Historical and Archaeological Sites

Many cultural resources are highly vulnerable to development activities. Often archaeological sites are not identified until development activity begins. Historical sites are frequently neglected to the point of decay. By that time, it is often too late to preserve them or to make scientific investigations.

Coastal Land Loss

In the past, new land built by deposition of river sediments more than offset land loss through erosion; however, this is no longer the case. Studies have documented an average yearly net loss of 16.5 square miles of land occurring through shoreline erosion, marsh deterioration, canal construction and other factors. Since 1940, the total land loss has been more than 500 square miles (LACCMR, 1973; Craig and Day, 1977; Adams, et al., 1976; Conner, et al., 1976; Adams, et al., 1978; Craig, et al., 1979).

Research studies have documented the relationship between fisheries yields and wetland acreage (see Figure 2). Given the economic importance of fisheries production to Louisiana, continued land loss bodes serious consequences for the economy of the state.

Fresh and Saltwater Imbalances

The problem of fresh and saltwater imbalances is increasing all along the coast. Oyster beds in Barataria Bay are an example. Saltwater is steadily advancing up the bay and forcing the retreat of prime oyster bed areas into the upper reaches of the bay (Van Sickle, et al., 1976 and LACCMR, 1973:33).

Saltwater intrusion has also been observed in the freshwater areas which humans use as a source of drinking water (LACCMR, 1973:142). Mean salinities in Lake Pontchartrain have increased from yearly averages of 1.3 ppt in the early 60's to the current averages of 4 to 9 ppt (LACCMR, 1973:143).

The reasons for increasing saltwater intrusion are many, but there are two primary causes: the necessary levee system along the Mississippi River and the dredging of new canals and waterways.

Levees and man-made canal systems have caused fresh and saltwater imbalances. Levees deprive the estuaries of the flow of freshwater. This has raised the salinity of the water in many places. During high river stages and rainy seasons, the canals move freshwater almost to the sea, changing brackish areas to freshwater; during low river stages, the canals allow the rapid inland advance of sea water.

Coastal Water Quality

The water quality of the coastal wetlands is related to the quality of the freshwater in the rivers in the coastal area. For this reason, high quality water in the river basins is extremely important. Several factors have already affected water quality. Industrial wastes and domestic sewage discharged or released into the Mississippi River and other rivers contribute to high bacterial concentrations and the presence of toxic pollutants downstream. Turbidity caused by suspended particles such as silt is increasing in many of our streams as land clearing associated with agriculture, silviculture, industry or urbanization increases. Turbidity

and siltation in some areas have increased to the point where productivity in some areas has been lowered because sunlight cannot penetrate the turbid water (LACCMR, 1973, and Craig and Day, 1977).

Eutrophication (overenrichment) of coastal waters is widespread. For example. Scientific data indicate that Lake Pontchartrain is already eutrophic now and will become excessively so by the end of the century (Craig and Day, 1977).

Other coastal water quality problems affecting seafood production include contamination by water-borne diseases, illustrated in southwestern Louisiana. Cholera bacteria have been detected in water samples taken in the Old Intracoastal Waterway between White Lake and Vermilion Bay. Untreated sewage flowing into coastal waterways or rivers flowing into the coastal zone is the possible, though unconfirmed, source of the cholera outbreak.

Recently, the Department of Health and Human Resources found it necessary to close 80,000 acres of oyster bed grounds south of Bayou Lamoque and east of the Mississippi River in the area of Plaquemines Parish. Coliform counts in this area were running ten times the national standard set by the Food and Drug Administration.

Barrier Islands

The gulf islands are invaluable as wildlife habitat and scenic-recreation areas. Barrier islands, such as Timbalier Island, Grand Isle, and Grand Terre, are also an important natural defense against marine erosion processes and hurricanes. The tidal passes associated with barrier island can be viewed in part as control valves of the estuaries (Gagliano, 1973) because they regulate the amount of salinity intrusion and storm energy that enters the estuaries.

The barrier islands along the coast are being eroded. In the Barataria Basin, the barrier islands of Grand Isle and Grand Terre were listed as areas of "critical erosion" by the U.S. Army Corps of Engineers (National Shoreline Study). Between 1960 and 1972, 172 acres (18 percent) of the principal Grand Terre island were eroded away. Between 1932 and 1969 the average rate of barrier island erosion in the Barataria Basin was 119 acres per year. The width of the tidal passes in the Barataria Bay area is increasing as is the rate of increase of width (Van Sickle, et al., 1976).

The coastal erosion of the barrier islands is due to insufficient sedimentation from the Mississippi River, regional subsidence, hurricane damage, and man-induced changes such as dredging of canals, on the bayside of a number of islands (Gagliano, 1973), and traversing of barrier islands by pipelines.

Natural Areas, Wildlife and Fisheries Habitat

Louisiana's extensive coastal wetlands are great natural producers of food. These vast marshlands and coastal waters sustain renewable resources which serve many commercial and recreational functions year after year.

Studies of fish and wildlife production indicate that fish and wildlife are dependent on suitable habitat above all else for survival. Wetlands and other habitat have been destroyed by dredge and fill projects, saltwater intrusion, impoundments, leveeing, and channel dredging (LACCME, 1973:7). For example, land loss has already resulted in an economic loss in fishery products, estimated at between eight and seventeen million dollars annually (Craig and Day, 1977; Conner, et al., 1976; and CEI, 1976). The leveeing of the Mississippi River, for example, has adversely affected coastal wetlands by blocking the flow of freshwater and nutrients. This has increased salt water intrusion and already affected the habitat of many important fish and wildlife species.

CHAPTER II

PROGRAM POLICIES

A) INTRODUCTION

The problems and issues identified in the previous chapter have long been recognized by the Louisiana Legislature through the enactment of several coastal management laws, culminating in Act 361, the Louisiana State and Local Coastal Resources Management Act of 1978. With the passage of Act 361, the State of Louisiana initiated a major effort to develop a coastal management program at both the state and local levels that would be approvable under Section 306 of the CZMA. In Act 361, Section 213.2, the Legislature declared the following to be public policy of the state:

- * (1) To protect, develop, and where feasible, restore or enhance the resources of the state's coastal zone.
- (2) (a) To assure that, to the maximum extent feasible, constitutional and statutory authorities affecting uses of the coastal zone should be included within the Louisiana Coastal Resources Program and that guidelines and regulations adopted pursuant thereto shall not be interpreted to allow expansion of governmental authority beyond those laws.
- (b) To express certain regulatory and non-regulatory policies for the coastal zone management program. Regulatory policies are to form a basis for administrative decisions to approve or disapprove activities only to the extent that such policies are contained in the statutes of this state or regulations duly adopted and promulgated pursuant thereto. They are to be applicable to each governmental body only to the extent each governmental body has jurisdiction and authority to enforce such policies. Other policies are nonregulatory. They are included in the Coastal Zone Management Plan to help set out priorities in administrative decisions and to inform the public and decision makers of a coherent state framework, but such policies are not binding on private parties.
- (3) To support and encourage multiple use of coastal resources consistent with the maintenance and enhancement of renewable resource management and productivity, the need to provide for adequate economic growth and development and the minimization of adverse effects of one resource use upon another, without imposing any undue restriction on any user.

- (4) To employ procedures and practices that resolve conflicts among competing uses within the coastal zone in accordance with the purpose of this Part and simplify administrative procedures.
- (5) To develop and implement a coastal resources management program which is based on consideration of our resources, the environment, the needs of the people of the state, the nation, and of state and local government.
- (6) To enhance opportunities for the use and enjoyment of the recreational values of the coastal zone.
- (7) To develop and implement a reasonable and equitable, coastal resources management program with sufficient expertise, technical proficiency, and legal authority to enable Louisiana to determine the future course of development and conservation of the coastal zone and to ensure that state and local governments have the primary authority for managing coastal resources.

In order to achieve the state policy in Act 361, the Legislature instructed the Secretary of the Department of Transportation and Development (DOTD) to develop an overall state coastal management program composed as follows:

“The Secretary shall develop the overall state coastal management program consisting of all applicable constitutional provisions, laws, and regulations of this state which affect the coastal zone in accordance with the provisions of this Part and shall include within the program such other applicable constitutional or statutory provisions or other regulatory or management programs or activities as may be necessary to achieve the purposes of this Part or necessary to implement the guidelines hereinafter set forth (Section 21.38(A), Act 361).”

The remainder of this chapter sets forth the policies for the Louisiana Coastal Resources Program (LCRP), including the coastal use guidelines and the selected constitutional and statutory provisions that serve as the basis of decisions under the LCRP.

B) COASTAL USE GUIDELINES

The Legislature recognized when it enacted Act 361 that existing constitutional and statutory provisions were insufficient to provide the policies and criteria necessary to guide management decisions in the coastal zone. The Legislature, therefore, provided for the promulgation of coastal use guidelines in Section 21.38 of Act 361. The means by which the state will implement the guidelines is explained fully in Chapter IV; it is worth noting at this point, however, that the guidelines will serve primarily as the substantive standards and criteria for the following purposes:

- DNR issuance of coastal use permits for activities subject to the state coastal use permit system.

- OC./DNR issuance of in-lieu permits.
- DNR review and approval of local coastal programs.
- Local governments issuance of coastal use permits subject to a coastal use permit system administered pursuant to an approved local plan.
- DNR and in certain instances gubernatorial review of the activities of state agencies, local governments and deep water ports for consistency with the LCRP.
- DNR gubernatorial review of the consistency of the actions of federal agencies with the LCRP pursuant to CZMA Section 307, in addition to other state policies incorporated into the LCRP.

Goals for Development of the Guidelines

In order to provide additional guidance for the development of the coastal use guidelines, the Legislature established the following goals in Section 213.8 (C) of Act 361.

- * (1) To encourage full use of coastal resources while recognizing it is in the public interest of the people of Louisiana to establish a proper balance between development and conservation.
- (2) Recognize that some areas of the coastal zone are more suited for development than other areas and hence use guidelines which may differ for the same uses in different areas.
- (3) Require careful consideration of the impacts of uses on water flow, circulation, quantity, and quality and require that the discharge or release of any pollutant or toxic material into the water or air of the coastal zone be within all applicable limits established by law, or by federal, state or local regulatory authority.
- (4) Recognize the value of special features of the coastal zone such as barrier islands, fishery nursery grounds, recreation areas, ports and other areas where development and facilities are dependent upon the utilization of or access to coastal waters, and areas particularly sited for industrial, commercial, or residential development and manage those areas so as to enhance their value to the people of Louisiana.
- (5) Minimize, whenever feasible and practical, detrimental impacts on natural areas and wildlife habitat and fisheries by such means as encouraging minimum change of natural systems and by multiple use of existing canals, directional drilling, and other practical techniques.
- (6) Provide for adequate corridors within the coastal zone for transportation, industrialization, or urbanization and encouraging the

location of such corridors in already developed or disturbed areas when feasible or practicable.

- (7) Reduce governmental red tape and costly delays and ensure more predictable decisions on permit applications.
- (8) Encourage such multiple uses of the coastal zone as are consistent with the purposes of this Part.
- (9) Minimize detrimental effects of foreseeable cumulative impacts on coastal resources from proposed or authorized uses.
- (10) Provide ways to enhance opportunities for the use and enjoyment of the recreational values of the coastal zone.
- (11) Require the consideration of available scientific understanding of natural systems, available engineering technology and economics in the development of management programs.
- (12) Establish procedures and criteria to ensure that appropriate consideration is given to uses of regional, state, or national importance, energy facility siting and the national interests in coastal resources."

The Guideline Development Process

The process for adoption of the Coastal Use Guidelines is established by Section 213.8 (B) of Act 361. Pursuant to this section, the guidelines are initially developed by the Secretary of DOTD in consultation with the Secretaries of Department of Natural Resources (DNR) and Department of Wildlife and Fisheries (DWF). After public hearings on the guidelines and consideration of the comments received, the guidelines are submitted to the Louisiana Coastal Commission. The Commission may approve or disapprove individual guidelines giving the reasons in writing for each guideline disapproved. The Commission has sixty days to act, and lack of official action constitutes approval. Any guidelines disapproved are returned to the Secretaries of the Department of Transportation and Development, Natural Resources, and Wildlife and Fisheries, acting jointly, for further consideration. The Secretaries may submit revised guidelines to the Commission within thirty days. The Commission then has thirty days to act on the guidelines as revised. Subsequent to action by the Commission the guidelines as revised. Subsequent to action by the Commission the guidelines are to be submitted to the House Committee on Natural Resources and Senate Committee on Natural Resources and, if rejected by the Committees, to the Governor for final determination. The Secretary shall adopt those guidelines approved by the Commission upon review by the Committee or Governor.

Draft guidelines developed by the Secretary of DOTD in conjunction with Secretaries of the DNR and the DWF were made available in the March 1979 Hearing Draft document of the LCRP. Following two public hearings on the guidelines and the Hearing Draft of the LCRP in April, 1979, revised guidelines were submitted to the Louisiana Coastal Commission on May 30, 1979.

The Coastal Commission met six times to review and vote on each individual guideline, completing its review on August 14, 1979. The guidelines and program were then issued as a Draft Environmental Impact Statement (DEIS) by OCZM in September, 1979. Following the completion of the review process for the DEIS and consideration of the comments received, the guidelines and the rules and regulations contained in Appendix c were submitted to the House and Senate Natural Resources Committees on July 7, 1980. The House and Senate met on the guidelines, rules and regulations in separate hearings. The House met on July 9, 1980 and took no action which constituted approval on July 27, 1980. The Senate Natural Resources Committee met on July 11, 1980 and approved the guidelines, rules and regulations with only minor modifications to several definitions and asked that work begin on a variance procedure as provided for by Section 213.11(E) of Act 361 within 30 days of final OCZM approval.

The guidelines, rules and regulations were submitted to the Governor on July 14, 1980 and approved by the Governor on July 24, 1980. After approval by the Governor, the guidelines, rules and regulations were placed in the Louisiana Register for adoption on August 20, 1980 and will take effect on September 20, 1980.

How to Use the Coastal Use Guidelines

The guidelines have been written in order to implement the policies (Section 213.2) and goals (Section 213.8(C)) of Act 361. The legislative guidance contained in Act 361 requires decision-making criteria that will protect, develop, and where feasible, restore the natural resources of the state while providing for adequate economic growth and development. In order to accomplish these sometimes conflicting goals, the guidelines are organized as a set of performance standards for evaluating projects or proposals on their individual merits for compliance with the guidelines. This "performance standards" approach deals primarily with the impacts of a proposed action on coastal resources. Under this approach, policies need not be developed for all aspects of a use but only for those which would have direct and significant impacts on coastal waters.

The alternative approach of designating which uses are permissible in different geographic areas of the coast is seen by LCRP as an action that may be utilized by local governments (Section 213.9, Act 361). This type of approach by local governments is fully encouraged and supported. However, in terms of the details involved in its implementation, this approach would be inappropriate for state management of the coastal zone as a whole. Such a state level program would not allow sufficient flexibility for future decision-making at the state level, as changing technology and advances in development alternatives which may offer ways to mitigate or even ameliorate environmental or other impacts. Therefore, the performance standard approach seems best suited to the needs for management of coastal Louisiana.

The coastal use guidelines will be implemented through the coastal use permit and in-lieu permit system and review and certification of the activities of other state and federal agencies (discussed in detail in Chapters IV and VII). The guidelines must be read in their entirety and a number of guidelines will apply to a single proposed use. In making a decision as to whether or not a particular use complies with the guidelines, all applicable guidelines must be considered and complied with.

In the general guidelines, guideline 1.2 requires that a proposed use conform with all applicable laws, standards and regulations which have been incorporated by reference in Appendix I into the Coastal Resources Programs. This includes those standards related to water and air quality

Guideline 1.6 is an informational guideline; it provides a list of those factors which will be considered in evaluating applications for permits. The list is designed to show applicants the range of relevant information considered and provides guidance for local decision makers who may not be fully familiar with the requirements of the Louisiana Coastal Resources Program. Guideline 1.6 assures that in every decision full consideration will be given to all relevant factors. Under 1.6, primary responsibility is on the decision maker to request or generate necessary information regarding the impacts of a use and the existing environmental conditions under which the proposed project would be located and carried out. The responsibility, however, is on the applicant to provide sufficient information the proposed use itself, the applicants need and financial ability, and alternatives available to the applicant which would permit the use to be carried out successfully.

Guideline 1.7 provides a general listing of impacts which the LCRP has identified as being appropriate to avoid or minimize if uses are to be carried out in the coastal zone. These impacts can serve as the basis for conditions or denial of permits.

In some 44 of the 94 guidelines, the term "maximum extent practicable" is used. An understanding of this term and how it is to be utilized is an essential element of the coastal use permit decision making process. The term is an integral part of the process set forth in guideline 1.8. The purpose of guideline 1.8 is to delineate the manner in which the benefits and impacts of a proposed use, as well as available alternatives are systematically reviewed and balanced. The process establishes the basis upon which discretion can be exercised to resolve apparent conflicts or inconsistencies among the other guidelines. Such discretion is necessary if an appropriate balancing between the need for conservation of Louisiana's important coastal natural resources and the need for continued economic growth and development is to be realized. This process assures that uses which must be carried out in wetland areas are carried out in an environmentally sound manner and that the degradation of Louisiana's coastal resources by new activities is reduced to a minimum.

As pointed out in the first sentence of guideline 1.8, the guideline is only applicable when triggered by other guidelines in which the term "maximum extent practicable" appears. It is not applicable to any other guidelines and does not stand as a general process to be used in every case. For example, assume that a permit application is being reviewed for compliance with the guidelines. Several guidelines do not contain the term "maximum extent practicable". If after review, the decision maker determines that the proposed use is in compliance with all of those guidelines which do not contain the term "maximum extent practicable", the review then turns to those guidelines in which the term appears. When compared to some of the guidelines in which the term appears, the proposed use meets the substantive standard and is in compliance with the guidelines.

But, in other cases it may not meet the standards; it is these remaining cases to which the three-part test provided for in guideline 1.8 is applied.

The use will be in compliance with the guidelines and may be permitted if, “after a systematic consideration of all pertinent information regarding the use, the site and the impacts of the use as set forth in guideline 1.6, and a balancing of their relative significance”, the decision maker finds that the proposed use meets all of the three following tests:

- A) “The benefits resulting from the use would clearly outweigh the adverse impacts that would result from noncompliance with the modified standard”, and
- B) “There are no feasible and practical alternative locations, methods, or practices for the use that are in compliance with the modified standard”, and
- C) The use meets one of the following three criteria:
 - (a) “significant public benefits will result from the use”, or;
 - (b) “the use would serve important regional, state or national interests, including the national interest in resources and the siting of facilities in the coastal zone identified in the coastal resources program”, or;
 - (c) “the use is coastal water dependent”.

If, and only if, the use meets all three of the above criteria, may it be permitted. If the decision maker determines that the use should be permitted, permit conditions must then be developed such that adverse impacts resulting from the proposed use are minimized. These conditions must “assure that the use is carried out utilizing those locations, methods and practices which maximize conformance to the modified standard; are technically, economically, environmentally, socially and legally feasible and practical and minimize or offset those adverse impacts listed in guideline 1.7 and in the guideline at issue³. Thus, if a proposed use meets the three criteria for determining as to whether the use may be allowed to proceed, notwithstanding noncompliance with the substantive standard of the triggering guideline, it must also comply with conditions which assure that resulting adverse impacts are as minimal as is feasible and practicable.

The three tests provided for in guideline 1.8 are to be carried out as follows:

The first test, which requires that the benefits resulting from the use must clearly outweigh the adverse impacts that would result from non-compliance with the triggering guideline, resembles a cost/benefit analysis. The test requires that the resulting benefits, whether public or private, are of sufficient magnitude to make the loss of coastal resources acceptable. However, this is not a straight cost/benefit ratio with monetary

allocations to benefits and damages. As environmental harm frequently is not capable of being measured in monetary values and research to provide proper allocation is, at best, tenuous, monetary allocations are unacceptable. The process is more in the nature of a subjective test which places heavy emphasis on the value of the natural resources and the value to the public from the proposed use.

The second test assures that if another location or design for a use is available which would allow the use to be successfully carried out in compliance with the triggering guideline it must be utilized. In carrying out this test, full consideration must be given to all feasible and practical, alternatives including alternative locations for the use and alternative methodologies and practices for the use at the best location. This consideration of alternatives should be similar to the process provided for under Section 102 of the National Environmental Policy Act. In considering what alternatives are feasible and practical, the decision maker must consider the alternatives legally and economically available to the particular person applying for the permit. However, the decision maker is not held to the options economically available to the applicant. The test is what alternatives would be available to a reasonable person in a normal situation. An undercapitalized applicant should not be permitted to damage or destroy important public resources when a well financed one is prevented from doing so.

The third test is made up of three criteria, one of which must be met. The first one on the criteria which can be met is whether significant public benefits will accrue from the proposed use. These public benefits must go to the public as a whole, not just to a few individuals in the locality, and must be measurably substantial.

The second criterion is whether the use will serve important interests of greater than local concern. Such uses are those which would serve the national interest in the siting of facilities and resources which have been specifically identified in Tables 7 and 8 in Chapter VI of this document. This assures that those projects which are important to the region, to the state or to the nation, are assured full consideration.

The third criterion available is whether the use is coastal water dependent. Coastal water dependent uses are defined on page 65 as "those which must be carried out on, in or adjacent to the water body or wetland or requires the consumption, harvesting or other direct use of coastal resources, or requires the use of coastal water in the manufacturing or transportation of goods. Examples of uses meeting the terms of this definition include surface and subsurface mineral extraction, fishing, ports and necessary supporting commercial and industrial facilities, facilities for the construction, repair and maintenance of vessels, navigation projects, and fishery processing plants". This provides the special status appropriate for coastal water dependent uses for which there are sometimes only a limited range of locational alternatives

If the three tests are met, permit, conditions are developed to assure that the use results in minimal adverse impacts. The language of the

guideline, while not requiring mitigation, clearly permits it and, when read in conjunction with certain other guidelines, as for example guideline 4.2, makes it clear that any activity reasonably available to the permittee to reduce or offset adverse impacts should be utilized if it is practical to do so the conditions placed on permits must, however, be feasible and practical in that they must be limited to these locations, methods and/or practices which are of established usefulness and efficiency which allow the use to be carried out successfully. The decision maker must give full consideration to technical, economic, environmental, social, and legal limitations, in determining the feasibility and practicality of permit conditions which must be applied. Such consideration ensures that conditions are arrived at in a balanced fashion, consistent with both the CZMA and Act 361.

Amendments to the Guidelines

Pursuant to Section 21.38(B) the coastal use guidelines are to be followed in the development of the state coastal program and local coastal programs. The Secretary of DNR, jointly with the Secretaries of DOTD and DWF, are to review the guidelines at least once each year to consider amendments to the guidelines based on experience gained in issuing coastal use permits and the results of research and planning activities. Any additions, deletions, or modifications will be subject to the same adoption process required for the initial proposed guidelines.

The following pages contain the final coastal use guidelines adopted pursuant to the process described on Page 45. Following the guidelines is a description of the other policies incorporated into the LCRP from existing provisions of law.

COASTAL USE GUIDELINES
AS APPROVED BY THE HOUSE NATURAL RESOURCES
COMMITTEE ON JULY 9, 1980, THE SENATE NATURAL
RESOURCES COMMITTEE ON JULY 11, 1980 AND
THE GOVERNOR ON JULY 24, 1980

LOUISIANA DEPARTMENT OF NATURAL RESOURCES
LOUISIANA COASTAL RESOURCES PROGRAM

GUIDELINES APPLICABLE TO ALL USES

Guideline 1.1 The guidelines must be read in their entirety. Any proposed use may be subject to the requirements of more than one guideline or section or guidelines and all applicable guidelines must be complied with.

Guideline 1.2 Conformance with applicable water and air quality laws, standards and regulations, and with those other laws, standards and regulations which have been incorporated into the coastal resources program shall be deemed in conformance with the program except to the extent that these guidelines would impose additional requirements.

Guideline 1.3 The guidelines include both general provisions applicable to all uses and specific provisions applicable only to certain types of uses. The general guidelines apply in all situations. The specific guidelines apply only to the situations they address. Specific and general guidelines should be interpreted to be consistent with each other. In the event there is an inconsistency, the specific should prevail.

Guideline 1.4 These guidelines are not intended to nor shall they be interpreted so as to result in an involuntary acquisition or taking of property.

Guideline 1.5 No use or activity shall be carried out or conducted in such a manner as to constitute a violation of the terms of a grant or donation of any lands or waterbottoms to the State or any subdivision thereof. Revocations of such grants and donations shall be avoided.

Guideline 1.6 Information regarding the following general factors shall be utilized by the permitting authority in evaluating whether the proposed use is in compliance with the guidelines.

- a) type, nature and location of use.
- b) elevation, soil and water conditions and flood and storm hazard characteristics of site.
- c) techniques and materials used in construction, operation and maintenance of use.
- d) existing drainage patterns and water regimes of surrounding area including flow, circulation, quality, quantity and salinity; and impacts on them.
- e) availability of feasible alternative sites or methods for implementing the use.
- f) designation of the area for certain uses as part of a local program.

- g) economic need for use and extent of impacts of use on economy of locality.
- h) extent of resulting public and private benefits.
- i) extent of coastal water dependency of the use.
- j) existence of necessary infrastructure to support the use and public costs resulting from use.
- k) extent of impacts on existing and traditional uses of the area and on future uses for which the area is suited.
- l) proximity to and extent of impacts on important natural features such as beaches, barrier islands, tidal passes, wildlife and aquatic habitats, and forest lands.
- m) the extent to which regional, state and national interest are served including the national interest in resources and the siting of facilities in the coastal zones as identified in the coastal resources program.
- n) proximity to, and extent of impacts on, special areas, particular areas, or other areas of particular concern of the state program or local programs.
- o) likelihood of, and extent of impacts of, resulting secondary impacts and cumulative impacts.
- p) proximity to and extent of impacts on public lands or works, or historic, recreational or cultural resources.
- q) extent of impacts on navigation, fishing, public access, and recreational opportunities.
- r) extent of compatibility with natural and cultural setting.
- s) extent of long term benefits or adverse impacts.

Guideline 1.7 It is the policy of the coastal resources program to avoid the following adverse impacts. To this end, all uses and activities shall be planned, sited, designed, constructed, operated and maintained to avoid to the maximum extent practicable significant:

- a) reductions in the natural supply of sediment and nutrients to the coastal system by alterations of freshwater flow.
- b) adverse economic impacts on the locality of the use and affected governmental bodies.
- c) detrimental discharges of inorganic nutrient compounds into coastal waters.

- d) alterations in the natural concentration of oxygen in coastal waters.
- e) destruction or adverse alterations of streams, wetland, tidal passes, inshore waters and waterbottoms, beaches, dunes, barrier islands, and other natural biologically valuable areas or protective coastal features.
- f) adverse disruption of existing social patterns.
- g) alterations to the natural temperature regime of coastal waters.
- h) detrimental changes in existing salinity regimes.
- i) detrimental changes in littoral and sediment transport processes.
- j) adverse effects of cumulative impacts.
- k) detrimental discharges of suspended solids into coastal waters, including turbidity resulting from dredging.
- l) reductions or blockage of water flow or natural circulation patterns within or into an estuarine system or a wetland forest.
- m) discharges of pathogens or toxic substances into coastal waters.
- n) adverse alteration or destruction of archaeological, historical or other culture resources.
- o) fostering of detrimental secondary impacts in undisturbed or biologically highly productive wetland areas.
- p) adverse alteration or destruction of unique or valuable habitats, critical habitat for endangered species, important wildlife or fishery breeding or nursery areas, designated wildlife management or sanctuary areas, or forestlands.
- q) adverse alteration or destruction of public parks, shoreline access point, public works, designated recreation areas, scenic rivers, or other areas of public use and concern.
- r) adverse disruptions of coastal wildlife and fishery migratory patterns.
- s) land loss, erosion and subsidence.
- t) increases in the potential for flood, hurricane or other storm damage, or increases in the likelihood that damage will occur from such hazards.

- u) reductions in the long term biological productivity of the coastal ecosystem.

Guideline 1.8 In those guidelines in which the modifier “maximum extent practicable” is used, the proposed use is in compliance with the guideline if the standard modified by the term is complied with. If the modified standard is not complied with, the use will be in compliance with the guideline if the permitting authority finds, after a systematic consideration of all pertinent information regarding the use, the site and the impacts of the use as set forth in guideline 1.6, and a balancing of their relative significance, that the benefits resulting from the proposed use would clearly outweigh the adverse impacts resulting from non-compliance with the modified standard and there are no feasible and practical alternative locations, methods and practices for the use that are in compliance with the modified standard and:

- a) significant public benefits will result from the use, or:
- b) the use would serve important regional, state or national interests, including the national interest in resources and the siting of facilities in the coastal zone identified in the coastal resources program, or;
- c) the use is coastal water dependant.

The systematic consideration process shall also result in a determination of those conditions necessary for the use to be in compliance with the guideline. Those conditions shall assure that the use is carried out utilizing those locations, methods and practices which maximize conformance to the modified standard are technically, economically, environmentally, socially and legally feasible and practical; and minimize or offset those adverse impacts listed in guideline 1.7 and in the guideline at issue.

Guideline 1.9 Uses shall to the maximum extent practicable be designed and carried out to permit multiple concurrent uses which are appropriate for the location and to avoid unnecessary conflicts with other uses of the vicinity.

Guideline 1.10 These guidelines are not intended to be, nor shall they be, interpreted to allow expansion of governmental authority beyond that established by La. R.S. 49"213.1 through 213.21, as amended; not shall these guidelines be interpreted so as to require permits for specific uses legally commenced or established prior to the effective date of the coastal use permit program not to normal maintenance or repair of such uses.

GUIDELINES FOR LEVEES

Guideline 2.1 The leveeing of unmodified or biologically productive wetlands shall be avoided to the maximum extent practicable.

Guideline 2.2 Levees shall be planned and sited to avoid segmentation of wetland areas and systems to the maximum extent practicable.

Guideline 2.3 Levees constructed for the purpose of developing or otherwise changing the use of a wetland area shall be avoided to the maximum extent practicable.

Guideline 2.4 Hurricane and flood protection levees shall be located at the non-wetland/wetland interface or landward to the maximum extent practicable.

Guideline 2.5 Impoundment levees shall only be constructed in wetland areas as part of approved water or marsh management projects or to prevent release of pollutants.

Guideline 2.6 Hurricane or flood protection levee systems shall be designed, built and thereafter operated and maintained utilizing best practical techniques to minimize disruptions of existing hydrologic patterns, and the interchange of water, beneficial, nutrients and aquatic organisms between enclosed wetlands and those outside the levee system.

GUIDELINES FOR LINEAR FACILITIES

Guideline 3.1 Linear use alignments shall be planned to avoid adverse impacts on areas of high biological productivity or irreplaceable resource areas.

Guideline 3.2 Linear facilities involving the use of dredging or filling shall be avoided in wetland and estuarine areas to the maximum extent practicable.

Guideline 3.3 Linear facilities involving dredging shall be of the minimum practical size and length.

Guideline 3.4 To the maximum extent practicable, pipelines shall be installed through the “push ditch” method and the ditch backfilled.

Guideline 3.5 Existing corridors, rights-of-way, canals, and streams shall be utilized to the maximum extent practicable for linear facilities.

Guideline 3.6 Linear facilities and alignments shall be, to the maximum extent practicable, designed and constructed to permit multiple uses consistent with the nature of the facility.

Guideline 3.7 Linear facilities involving dredging shall not traverse or adversely affect any barrier island.

Guideline 3.8 Linear facilities involving dredging shall not traverse beaches, tidal passes, protective reefs or other natural gulf shoreline unless no other alternative exists. If a beach, tidal pass, reef or other natural gulf shoreline must be traversed for a non-navigation canal, they

shall be restored at least to their natural condition immediately upon completion of construction. Tidal passes shall not be permanently widened or deepened except when necessary to conduct the use. The best available restoration techniques which improve the traversed areas's ability to serve as a shoreline shall be used.

Guideline 3.9 Linear facilities shall be planned, designed, located and built using the best practical techniques to minimize disruption of natural hydrologic and sediment transport patterns, sheet flow, and water quality, and to minimize adverse impacts on wetlands.

Guideline 3.10 Linear facilities shall be planned, designed, and built using the best practical techniques to prevent bank slumping and erosion, saltwater intrusion, and to minimize the potential for inland movement of storm-generated surges. Consideration shall be given to the use of locks in navigation canals and channels which connect more saline areas with fresher areas.

Guideline 3.11 All non-navigation canals, channels and ditches which connect more saline areas with fresher areas shall be plugged at all waterway crossings and at intervals between crossings in order to compartmentalize them. The plugs shall be properly maintained.

Guideline 3.12 The multiple use of existing canals, directional drilling and other practical techniques shall be utilized to the maximum extent practicable to minimize the number and size of access canals, to minimize changes of natural systems and to minimize adverse impacts on natural areas and wildlife and fisheries habitat.

Guideline 3.14 Areas dredged for linear facilities shall be backfilled or otherwise restored to the pre-existing conditions upon cessation of use for navigation purposes to the maximum extent practicable.

Guideline 3.15 The best practical techniques for site restoration and revegetation shall be utilized for all linear facilities.

Guideline 3.16 Confined and dead end canals shall be avoided to the maximum extent practicable. Approved canals must be designed and constructed using the best practical techniques to avoid water stagnation and eutrophication.

GUIDELINES FOR DREDGED SPOIL DEPOSITION

Guideline 4.1 Spoil shall be deposited utilizing the best practical techniques to avoid disruption of water movement, flow, circulation and quality.

Guideline 4.2 Spoil shall be used beneficially to the maximum extent practicable to improve productivity or create new habitat, reduce or compensate for environmental damage done by dredging activities, or prevent environmental damage. Otherwise, existing a spoil disposal areas or upland disposal shall be utilized to the maximum extent practicable rather than creating new disposal areas.

Guideline 4.3 Spoil shall not be disposed of in a manner which could result in the impounding or draining of wetlands or the creation of development sites unless the spoil deposition is part of an approved levee or land surface alteration project..

Guideline 4.4 Spoil shall not be disposed of on marsh, known oyster or clam reefs or in areas of submersed vegetation to the maximum extent practicable.

Guideline 4.5 Spoil shall not be disposed of in such a manner as to create a hindrance to navigation or fishing, or hinder timber growth.

Guideline 4.6 Spoil disposal areas shall be designed and constructed and maintained usihng the best practical techniques to retain the spoil at the site, reduce turbidity, and reduce shoreline erosion when appropriate.

Guideline 4.7 The alienation of state-owned property shall not result from spoil deposition activities without the consent of the Department of Natural Resources.

GUIDELINES FOR SHORELINE MODIFICATION

Guideline 5.1 Non-structural methods of shoreline protection shall be utilized to the maximum extent practicable.

Guideline 5.2 Shoreline modification structures shall be designed and built using best practical techniques to minimize adverse environmental impacts.

Guideline 5.3 Shoreline modification structures shall be lighted or marked in accordance with U.S. Coast Guard regulations, not interfere with navigation, and should foster fishing, other recreational opportunities and public access.

Guideline 5.4 Shoreline modification structures shall be built using best practical materials and techniques to avoid the introduction of pollutants and toxic substances into coastal waters.

Guideline 5.5 Piers and docks and other harbor structures shall be designed and built using best practical techniques to avoid obstruction of water circulation.

Guideline 5.6 Marinas, and similar commercial and recreational developments shall to the maximum extent practicable not be located so as to result in adverse impacts on open productive oyster beds, or submersed grass beds.

Guideline 5.7 Neglected or abandoned shoreline modification structures, piers, docks, mooring and other harbor structures shall be removed at the owner's expense, when appropriate.

Guideline 5.8 Shoreline stabilization structures shall not be built for the purpose of creating fill areas for development unless part of an approved surface alteration use.

Guideline 5.9 Jetties, groins, breakwaters and similar structures shall be planned, designed and constructed so as to avoid to the maximum extent practicable downstream land loss and erosion.

GUIDELINES FOR SURFACE ALTERATIONS

Guideline 6.1 Industrial, commercial, urban, residential, and recreational uses are necessary to provide adequate economic growth and development. To this end, such uses will be encouraged in those areas of the coastal zone that are suitable for development. Those uses shall be consistent with the other guidelines and shall, to the maximum extent practicable, take place only:

- a) on lands five feet or more above sea level or within fast lands;
or
- b) on lands which have foundation conditions sufficiently stable to support the use, and where flood and storm hazards are minimal or where protection from these hazards can be reasonable well achieved, and where the public safety would not be unreasonably endangered; and
 - 1) the land is already in high intensity of development use, or
 - 2) there is adequate supporting infrastructure, or
 - 3) the vicinity has a tradition of use for similar habitation or development

Guideline 6.2 Public and private works projects such as levees, drainage improvements, roads, airports, ports, and public utilities are

necessary to protect and support needed development and shall be encouraged. Such projects shall, to the maximum extent practicable, take place only when:

- a) they protect or serve those areas suitable for development pursuant to Guideline 6.1; and
- b) they are consistent with the other guidelines; and
- c) are consistent with all relevant adopted state, local and regional plans.

Guideline 6.3 BLANK (DELETED)

Guideline 6.4 To the maximum extent practicable wetland areas shall not be drained or filled. Any approved drain or fill project shall be designed and constructed using best practical techniques to minimize present and future property damage and adverse environmental impacts.

Guideline 6.5 Coastal water dependent uses shall be given special consideration in permitting because of their reduced choice of alternatives.

Guideline 6.6 Areas modified by surface alteration activities shall, to the maximum extent practicable, be revegetated, refilled, cleaned and restored to their predevelopment condition upon termination of the use.

Guideline 6.7 Site clearing shall to the maximum extent practicable be limited to those areas immediately required for physical development.

Guideline 6.8 Surface alterations shall, to the maximum extent practicable, be located away from critical wildlife areas and vegetation areas. Alterations in wildlife preserves and management areas shall be conducted in strict accord with the requirements of the wildlife management body.

Guideline 6.9 Surface alterations which have high adverse impacts on natural functions shall not occur, to the maximum extent practicable, on barrier islands and beaches, isolated cheniers, isolated natural ridges or levees, or in wildlife and aquatic species breeding or spawning areas, or in important migratory routes.

Guideline 6.10 The creation of low dissolved oxygen conditions in the water or traps for heavy metals shall be avoided to the maximum extent practicable.

Guideline 6.11 Surface mining and shell dredging shall be carried out utilizing the best practical techniques to minimize adverse environmental impacts.

Guideline 6.12 The creation of underwater obstructions which adversely affect fishing or navigation shall be avoided to the maximum extent practicable.

Guideline 6.13 Surface alteration sites and facilities shall be designed, constructed, and operated using the best practical techniques to prevent the release of pollutants or toxic substances into the environment and minimize other adverse impacts.

Guideline 6.14 To the maximum extent practicable only material that is free of contaminants and compatible with the environmental setting shall be used as fill.

GUIDELINES FOR HYDROLOGIC AND SEDIMENT TRANSPORT MODIFICATIONS

Guideline 7.1 The controlled diversion of sediment-laden waters to initiate new cycles of marsh building and sediment nourishment shall be encouraged and utilized whenever such diversion will enhance the viability and productivity of the outfall area. Such diversions shall incorporate a plan for monitoring and reduction and/or amelioration of the effects of pollutants present in the freshwater sources.

Guideline 7.2 Sediment deposition systems may be used to offset land loss, to create or restore wetland areas or enhance building characteristics of a development site. Such systems shall only be utilized as part of an approved plan. Sediment from these systems shall only be discharged in the area that the proposed use is to be accomplished.

Guideline 7.3 Undesirable deposition of sediments in sensitive habitat or navigation areas shall be avoided through the use of the best preventive techniques.

Guideline 7.4 The diversion of freshwater through siphons and controlled conduits and channels, and overland flow to offset saltwater intrusion and to introduce nutrients into wetlands shall be encouraged and utilized whenever such diversion will enhance the viability and productivity of the outfall area. Such diversions shall incorporate a plan for monitoring and reduction and/or amelioration of the effects of pollutants present in the freshwater source.

Guideline 7.5 Water or marsh management plans shall result in an overall benefit to the productivity of the area.

Guideline 7.6 Water control structures shall be assessed separately based on their individual merits and impacts and in relation to their overall water or marsh management plan of which they are a part.

Guideline 7.7 Weirs and similar water control structures shall be designed and built using the best practical techniques to prevent "cut arounds," permit tidal exchange in tidal areas, and minimize obstruction of the migration of aquatic organisms.

Guideline 7.8 Impoundments which prevent normal tidal exchange and/or the migration of aquatic organisms shall not be constructed in brackish and saline areas to the maximum extent practicable.

Guideline 7.9 Withdrawal of surface and ground water shall not result in saltwater intrusion or land subsidence to the maximum extent practicable.

GUIDELINES FOR DISPOSAL OF WASTES

Guideline 8.1 The location and operation of waste storage, treatment, and disposal facilities shall be avoided in wetlands to the maximum extent practicable, and best practical techniques shall be used to minimize adverse impacts which may result from such use.

Guideline 8.2 The generation, transportation, treatment, storage and disposal of hazardous wastes shall be pursuant to the substantive requirements of the Department of Natural Resources adopted pursuant to Act 334 of 1978 and approved pursuant to the Resource Conservation and Recovery Act of 1976 P.O. 94-580, and of the Office of Conservation for injection below surface.

Guideline 8.3 Waste facilities located in wetlands shall be designed and built to withstand all expectable adverse conditions without releasing pollutants.

Guideline 8.4 Waste facilities shall be designed and constructed using best practical techniques to prevent leaching, control leachate production, and prevent the movement of leachate away from the facility.

Guideline 8.5 The use of overland flow systems for non-toxic, biodegradable wastes, and the use of sump lagoons and reservoirs utilizing aquatic vegetation to remove pollutants and nutrients shall be encouraged.

Guideline 8.6 All waste disposal sites shall be marked and, to the maximum extent practicable, all components of waste shall be identified.

Guideline 8.7 Waste facilities in wetlands with identifiable pollution problems that are not feasible and practical to correct shall be closed and either removed or sealed, and shall be properly revegetated using the best practical techniques.

Guideline 8.8 Waste shall be disposed of only at approved disposal sites.

Guideline 8.9 Radioactive wastes shall not be temporarily or permanently disposed of in the coastal zone.

GUIDELINES FOR USES THAT RESULT IN THE ALTERATION OF WATERS DRAINING INTO COASTAL WATERS

Guideline 9.1 Upland and upstream water management programs which affect coastal waters and wetlands shall be designed and constructed to preserve or enhance existing water quality, volume, and rate of flow to the maximum extent practicable.

Guideline 9.2 Runoff from developed areas shall to the maximum extent practicable be managed to simulate natural water patterns, quantity, quality and rate of flow.

Guideline 9.3 Runoff and erosion from agricultural lands shall be minimized through the best practical techniques.

GUIDELINES FOR OIL, GAS, AND OTHER MINERAL ACTIVITIES

Guideline 10.1 Geophysical surveying shall utilize the best practical techniques to minimize disturbance or damage to wetlands, fish and wildlife and other coastal resources.

Guideline 10.2 To the maximum extent practicable, the number of mineral exploration and production sites in wetland areas requiring floatation access shall be held to the minimum number, consistent with good recovery and conservation practices and the need for energy development, by directional drilling, multiple use of existing access canals and other practical techniques.

Guideline 10.3 Exploration, production and refining activities shall, to the maximum extent practicable, be located away from critical wildlife areas and vegetation areas. Mineral operations in wildlife preserves and management areas shall be conducted in strict accordance with the requirements of the wildlife management body.

Guideline 10.4 Mineral exploration and production facilities shall be to the maximum extent practicable designed, constructed and maintained in such a manner to maintain natural water flow regimes, avoid blocking surface drainage, and avoid erosion.

Guideline 10.5 Access routes to mineral exploration, production and refining sites shall be designed and aligned so as to avoid adverse impacts on critical wildlife and vegetation areas to the maximum extent practicable.

Guideline 10.6 Drilling and production sites shall be prepared, constructed, and operated using the best practical techniques to prevent the release of pollutants or toxic substances into the environment.

Guideline 10.7 All drilling activities, supplies, and equipment shall be kept on barges, on drilling rigs, within ring levees, or on the well site.

Guideline 10.8 Drilling ring levees shall to the maximum extent practicable be replaced with smaller production levees or removed entirely.

Guideline 10.9 All drilling and production equipment, structures, and storage facilities shall be designed and constructed utilizing best practical techniques to withstand all expectable adverse conditions without releasing pollutants.

Guideline 10.10 Mineral exploration, production and refining facilities shall be designed and constructed using best practical techniques to minimize adverse environmental impacts.

Guideline 10.11 Effective environmental protection and emergency or contingency plans shall be developed and complied with for all mineral operations.

Guideline 10.12 The use of dispersants, emulsifiers and other similar chemical agents on oil spills is prohibited without the prior approval of the Coast Guard or Environmental Protection Agency on-Scene Coordinator, in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan.

Guideline 10.13 Mineral exploration and production sites shall be cleared, revegetated, detoxified and otherwise restored as near as practicable to their original condition upon termination of operations to the maximum extent practicable.

Guideline 10.14 The creation of underwater obstructions which adversely affect fishing or navigation shall be avoided to the maximum extent practicable.

GUIDELINE DEFINITIONS

Levees - any use or activity which creates an embankment to control or prevent water movement, to retain water or other material, or to raise a road or other lineal use above normal or flood water levels. Examples include levees, dikes and embankments of any sort.

Linear Facilities - those uses and activities which result in creation of structures or works which are primarily linear in nature. Examples include pipelines, roads, canals, channels, and powerlines.

Shoreline Modifications - those uses and activities planned or constructed with the intention of directly or indirectly changing or preventing change of a shoreline. Examples include bulkheading, piers, docks, wharves, slips and short canals, and jetties.

Spoil Deposition - the deposition of any excavated or dredged material.

Surface Alterations - those uses and activities which change the surface or usability of a land area or water bottom. Examples include fill deposition, land reclamation, beach nourishment, dredging (primarily areal), clearing, draining, surface mining, construction and operation of transportation, mineral, energy and industrial facilities, and industrial, commercial and urban developments.

Hydrologic and Sediment Transport Modifications - those uses and activities intended to change water circulation, direction of flow, velocity, level, or quality or quantity of transported sediment. Examples include locks, water gates, impoundments, jetties, groins, fixed and variable weirs, dams, diversion pipes, siphons, canals, and surface and groundwater withdrawals.

Waste Disposal - those uses and activities which involve the collections, storage and discarding or disposing of any solid or liquid material. Examples include littering; landfill; open dumping; incineration; industrial waste treatment facilities; sewerage treatment; storage in pits, ponds or lagoons; ocean dumping and subsurface disposal.

Alterations of Waters Draining in Coastal Waters - those uses or activities that would alter, change, or introduce polluting substances into runoff and thereby modify the quality of coastal waters. Examples include water control impoundments, upland and water management programs, and drainage projects from urban, agricultural and industrial developments.

Oil, Gas and Other Mineral Activities - those uses and activities which are directly involved in the exploration, production, and refining of oil, gas and other minerals. Examples include geophysical surveying, establishment of drill sites and access to them, drilling, on site storage of supplies, products and waste materials, production, refining, and spill cleanup.

Coastal Water Dependent Uses - those which must be carried out on, in or adjacent to coastal water areas or wetlands because the use requires access to the water body or wetland or requires the consumption, harvesting or other direct use of coastal resources, or requires the use of coastal water in the manufacturing or transportation of goods. Examples include surface and subsurface mineral extraction, fishing, ports, and necessary supporting commercial and industrial facilities, facilities for the construction, repair and maintenance of vessels, navigation projects, and fishery processing plants.

Best Practical Techniques - those methods or techniques which would result in the greatest possible minimization of the adverse impacts listed in Guideline 1.7 and in specific guidelines applicable to the proposed use. Those methods or techniques shall be the best methods or techniques which are in use in the industry or trade or among practitioners of the use, and which are feasible and practical for utilization.

Water or Marsh Management Plan - a systematic development and control plan to improve and increase biological productivity, or to minimize land loss, saltwater intrusion, erosion or other such environmental problems, or to enhance recreation.

Impoundment Levees - those levees and associated water control structures whose primary purpose is to contain water within the levee system either for the prevention of the release of pollutants, to create fresh water reservoirs, or for management of fish and wildlife resources.

Hurricane or Flood Protection Levees - those levees and associated water control structures whose primary purpose is to prevent occasional surges of flood or storm generated high water. Such levee systems do not include those built to permit drainage or development of enclosed wetland areas.

Development Levees - those levees and associated water control structures whose purpose is to allow control of water levels within the area enclosed by the levees to facilitate drainage or development within the leveed areas. Such levee systems also commonly serve for hurricane or flood protection, but are not so defined for purposes of these guidelines.

Feasible and Practical - those locations, methods and/or practices which are of established usefulness and efficiency and allow the use or activity to be carried out successfully.

Minerals - oil, gas, sulfur, geothermal, geopressured, salt, or other naturally occurring energy or chemical resources which are produced from below the surface in the coastal zone. Not included are such surface resources as clam or oyster shells, dirt, sand, or gravel.

Sediment Deposition Systems - controlled diversions of sediment-laden water in order to initiate land building or sediment nourishment or to minimize undesirable deposition of sediment in navigation channels or habitat areas. Typical activities include diversion channels, jetties, groins or sediment pumps.

Radioactive Wastes - Wastes containing source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

C) OTHER STATE POLICIES INCORPORATED INTO THE PROGRAM

Section 213.81A of Act 361 directs the Secretary of DNR, in developing the LCRP, to include all applicable legal and management provisions that affect the coastal zone or are necessary to achieve the purposes of Act 361 or to implement the guidelines effectively. It states:

“The Secretary shall develop the overall state coastal management program consisting of all applicable constitutional provisions, laws, and regulations of this state which affect the coastal zone in accordance with the provisions of this Par. and shall include within the program such other applicable constitutional or statutory provisions, or other regulatory or management programs or activities as may be necessary to achieve the purposes of this Part or necessary to implement the guidelines hereinafter set forth.”

The constitutional provisions and other statutory provisions, regulations, and management and regulatory programs incorporated into the LCRP are identified and described in Appendix 1. A description of how these other authorities are integrated into the LCRP and coordinated during program implementation is presented in Chapter IV. Since all of these policies are incorporated into the LCRP, federal agencies must ensure that their proposed actions are consistent with these policies as well as the coastal use guidelines. (CZMA, Section 307.)

CHAPTER III

BOUNDARY

A) INTRODUCTION

Section 305(b)(1) of the Coastal Zone Management Act of 1972, as amended, requires the management program for each coastal state to include an identification of the boundaries of the coastal zone subject to the management program. Federal coastal zone management program approval regulations, 15 C.F.R., Section 923.30-923.34, divide the boundaries of the coastal zone into four elements: the inland boundary, the seaward boundary, areas excluded from the coastal zone and interstate boundaries.

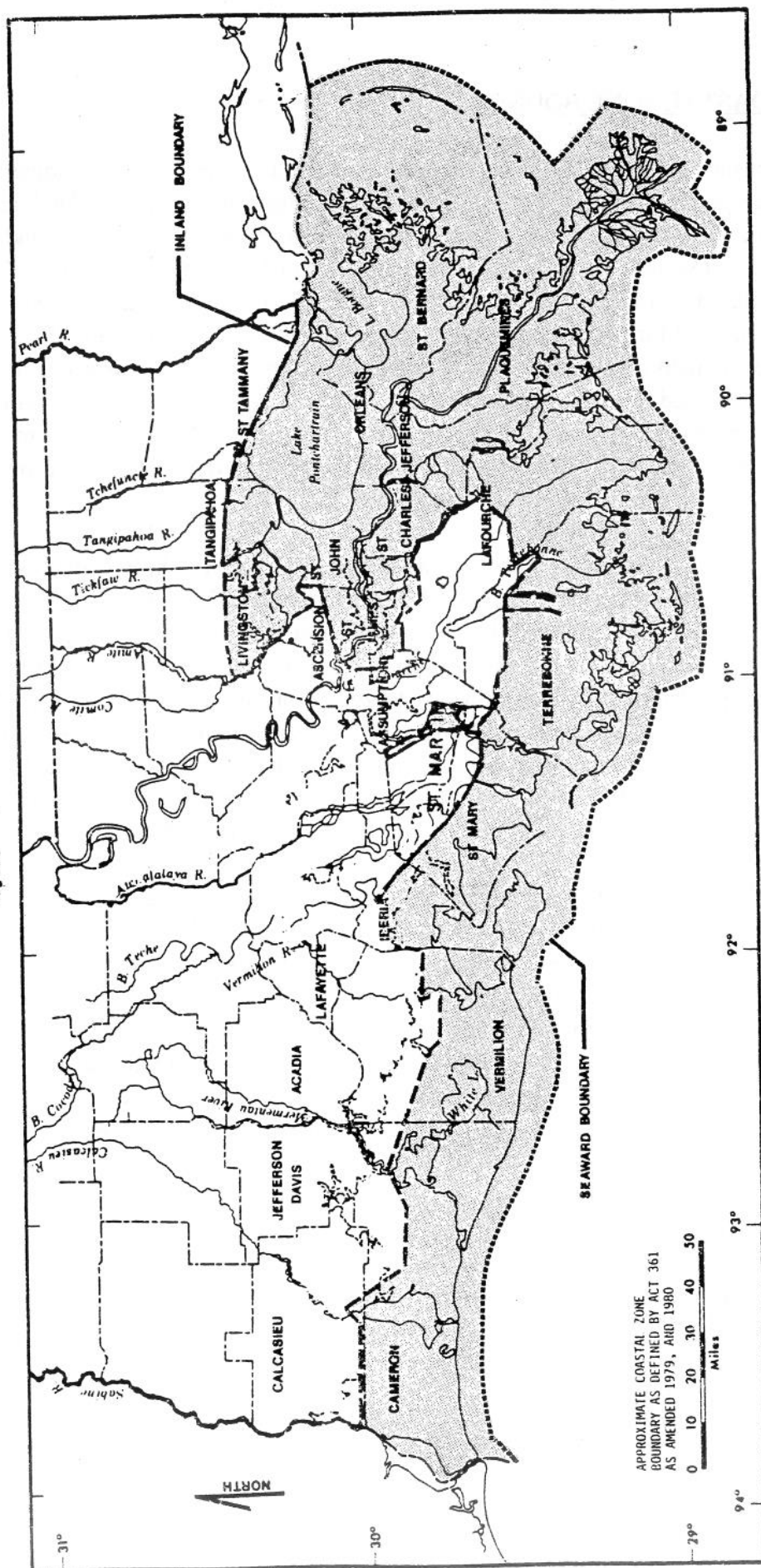
The federal regulations require that the inland boundary include seven geographical or management elements:

- those areas the management of which is necessary to control uses which have a direct and significant impact on coastal waters ...;
- designated special management areas identified pursuant to section 923.21 of the federal coastal zone management program approval regulations;
- all transitional and intertidal areas which are subject to coastal storm surge;
- beaches affected by wave action directly from the sea;
- islands;
- salt marshes and wetlands; and
- waters under saline influence.

The regulations also require that “the inland boundary must be presented in a manner that is clear and exact enough to permit determination of whether a property or an activity is located within the management area and that seaward boundaries are established as the three mile outer limit of the United State territorial sea.”

Excluded from state coastal zones are “those lands owned, leased, held in trust, or whose use is otherwise subject solely to the discretion of the federal government, its officers or agents.” Activities or projects which directly affect Louisiana’s coastal zone must be consistent with the state program.

Figure 3



B) LOUISIANA COASTAL ZONE BOUNDARIES

The Louisiana coastal zone boundary as described by Act 361 and subsequent amendments complies with the requirements of the federal CZMA. All islands, beaches, salt marshes, wetlands and areas necessary to control uses which have direct and significant impacts on coastal waters are included in the Louisiana coastal zone. (Section 923.31-923.33, Federal Program Approval Regulations). The original boundary as described in Act 361 has been revised three times. The first modification, which was provided for in the Act, allowed for minor revisions in the boundary to follow corporate limits of municipalities which were originally divided. The second revision of the coastal zone boundary came in 1979 when the legislature amended Act 361 to include all of St. James, St. John the Baptist, St. Charles parishes, a larger portion of Livingston Parish, and portions of Lafourche, St. Mary and Assumption parishes. The third revision came in 1980 when the Legislature amended Act 361 to include a portion of St. Martin Parish, which will become effective as of September 12, 1980.

Section 213.4 of Act 361, as amended, provides for a narrative description of the boundary of the Louisiana coastal zone (see Appendix b). This boundary is shown in Figure 3 and includes the most recent boundary modifications contained in Act 396 of 1980. Pursuant to Act 361, Section 213.4(d), DOTD promulgated a legal description of the 1979 inland boundary of the coastal zone, which is set forth in Appendix j. DOTD also prepared large scale maps of the coastal zone boundary as amended by the 1979 Louisiana Legislature. DNR is presently preparing a legal description of the new inland coastal boundary as modified by Act 396-1980. DNR will also prepare a new large scale boundary map showing the 1980 coastal boundary. Any amendments to the boundary made subsequent to federal approval will be subject to OCZM's program amendment procedures et forth in 15 C.F.R., Section 923.80-84.

The overview in Chapter I describes the vast and complex nature of coastal Louisiana. Seasonal flooding and variation in salinity levels create a dynamic environment that is particularly difficult to delineate through the establishment of an inland boundary. A number of inland boundary options have been considered in developing the LCRP (see Areas of Controversy, page 3). The current inland boundary was chosen because it contains all the significant coastal resource areas and uses which directly and significantly affect coastal water. The inland boundary also uses existing parish lines, highways and dominant physical feature, e.g., Intracoastal Waterway, to delineate the coastal zone in a clearer manner for interested parties. The end result is an area extending inland from the Gulf coast 16 to 32 miles and containing approximately 5.3 million acres.

Inland Boundary

The following is a general description of the inland boundary based on the boundary defined in Act 361. The inland boundary for the State of Louisiana contains all or part of nineteen parishes: in general, this boundary begins at the state line of Texas and Louisiana in the west and proceeds easterly through the parishes of Calcasieu and Cameron then south through Vermilion, Iberia, St. Mary, St. Martin, Assumption, Terrebonne and Lafourche. The boundary then turns to the north to

include the parishes of St. Charles, St. John the Baptist, St. James and then east again through Livingston, Tangipahoa and St. Tammany parishes to the Mississippi state line. The only parishes whose boundaries are completely within the coastal zone are the parishes of Orleans, Jefferson, St. Bernard, Plaquemines, St. John the Baptist, St. James and St. Charles.

Interstate Boundaries

The eastern lateral boundary of the coastal zone for purposes of this program is the Louisiana-Mississippi State Line. The boundary is as defined by the U.S. Supreme Court decision rendered in the case of the State of Louisiana vs. the State of Mississippi, 201 US 1 (1906).

The western lateral boundary of the coastal area for purposes of this program is the Louisiana-Texas State Line as defined by the U.S. Supreme Court decision rendered in the case of the State of Texas vs. the State of Louisiana, 431 US 161 (1977).

Coastal Zone Boundaries in Adjoining States

Neither Texas nor Mississippi currently have approved coastal zone management programs. The FEIS on the Mississippi Program is currently being prepared. The Texas Program has received preliminary approval under Section 305(d). Under both these programs, the coastal zone inland boundary would include the first tier of countries along the coast. Louisiana has consulted and coordinated with both Texas and Mississippi over the adjoining boundaries to ensure that all common resource areas are being managed compatibly.

Seaward Boundary

The seaward boundary of the coastal area for purposes of this program is the outer limit of the United State territorial sea. The seaward limits, as defined in this section, are for purposes of this program only and represent the area within which the state's management program may be authorized and financed. These limits are irrespective of any other claims Louisiana may have by virtue of the Submerged Lands Act or any changes that may occur as a result of the operation of Fisheries Conservation and Management Act of 1976.

C) EXCLUDED FEDERAL LANDS

In accordance with Section 304(a) of the Coastal Zone Management Act of 1972, all federal lands owned, leased, held in trust or whose use is otherwise subject solely to the discretion of the federal government are excluded from the Louisiana coastal zone. However, any activities or projects which are conducted within these excluded lands that have direct effects on the lands or water of Louisiana's coastal zone are subject to the consistency provisions of the CZMA.

To identify federally owned and controlled lands in the Louisiana coastal zone, a survey was forwarded to each federal agency through the Southwest Federal Regional Council in 1975. The major federal agency land holdings in Louisiana are as follows:

U.S. Department of the Interior

The great majority of these lands are National Wildlife Refuges administered by the U.S. Fish and Wildlife Service in Plaquemines, Iberia, and Cameron parishes. The Department of the Interior also owns and controls the Chalmette National Park in St. Bernard Parish and the newly acquired Jean Lafitte National Park in Jefferson Parish.

National Aeronautics and Space Administration

The National Aeronautics and Space Administration owns two facilities in the coastal zone, the Michoud Assembly Facility in Orleans parish and the Slidell Computer Facilities in St. Tammany Parish.

U.S. Department of Transportation

The Department of Transportation's holdings are Coast Guard Stations in Cameron, Jefferson, Orleans and Plaquemines, and the Aids to Navigation Team Headquarters in Terrebonne Parish.

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers has jurisdiction over 202,198 acres in Louisiana's coastal zone boundary. The Corps owns in fee simple 17,481 acres of land in the coastal zone which consists mostly of the Bonnet Carre Spillway and the Mississippi South and Southwest Passes. The Corps also owns other small acreages of land throughout the coastal zone consisting mainly of navigational locks and channels.

The Army Corps of Engineers also has easements of 184,707 acres of land in Louisiana coastal zone. Most of these easements are on lands adjacent to navigational canals, channels and the Atchafalaya and Morganza spillways.

Table 5 lists the approximate acreage of major federally controlled lands by department.

TABLE 5

APPROXIMATE ACREAGE OF MAJOR FEDERALLY CONTROLLED LANDS IN THE
LOUISIANA COASTAL ZONE

<u>Department or Agency</u>	<u>Acreage</u>
U.S. Department of the Interior	228,067
National Aeronautics and Space Administration	905
U.S. Department of Transportation	2,247
U.S. Department of Defense	
U.S. Army Corps of Engineers	202,206
U.S. Department of the Navy	5,364
U.S. Department of the Air Force	<u>20</u>
TOTAL ACRES	438,809

CHAPTER IV

ORGANIZATION AND AUTHORITIES

A) INTRODUCTION

Prior to July 1980, the Department of Transportation and Development had primary responsibility for coastal zone management in Louisiana. This responsibility included development of the guidelines, procedural rules and the DEIS. On July 8, 1980, Governor Treen, in accordance with Section 213.21 of the Act, signed Executive Order 80-15 transferring the responsibility for implementation of the management program to the Department of Natural Resources in order to have all environmental agencies in the same department. Consequently, the Department of Natural Resources has the primary responsibility for the implementation of coastal zone management.

A number of other agencies are involved in the development and implementation of the program including the Department of Wildlife and Fisheries, the Louisiana Coastal Commission, and the 19 coastal parishes. In addition, a number of state agencies have existing responsibilities for managing specific resources or activities in the coastal zone.

This chapter contains two major sections. Section B describes the organizational roles that various state and local entities will have in implementing the program and includes those responsibilities directly prescribed in Act 361 and the existing roles of state agencies which have been incorporated into the LCRP. Section C explains the various means that the entities described in Section B will use to implement the policies of the LCRP described in Chapter II. These means include implementation of the coastal use permit program, the use of other state regulatory programs and other procedures to provide intergovernmental coordination and consistency with the program.

B) ORGANIZATIONAL RESPONSIBILITIES FOR PROGRAM IMPLEMENTATION

Organizational responsibilities for implementation of the Louisiana Coastal Resources Program are based on the authority granted by Act 361. In order to understand the organizational provisions of the state program, it is necessary to understand the entities which administer the program and their relationship to the Department of Natural Resources (DNR), the state agency designated by the Governor pursuant to the provision of Section 213.21 of Act 361 to administrate the LCRP. The following are state and local organization a responsibilities as provided for by Act 361.

1) The Department of Natural Resources

The major organizational component of Louisiana's Coastal Resources Program is DNR and its Coastal Management Section established by Section 213.6 of Act 361. DNR's responsibilities concerning the development and implementation of the LCRP are as follows:

Administration of Federal CZM Programs

DNR is the designated state agency for administration of Sections 305, 306, 307 and 308 of the CZMA. In this capacity, DNR administers Management Program Development Grants (CZMA, Section 305), Administrative Grants (CZMA, Section 306), Federal Consistency (CZMA, Section 307) and the Coastal Energy Impact Program (CEIP) (CZMA, Section 308). The Secretary of DNR determines which projects, among those eligible, will be funded with CEIP monies allocated to Louisiana under the federal CEIP program.

Development of Coastal Use Guidelines

DNR is responsible, in conjunction with DWF and DOTD, for development of coastal use guidelines pursuant to Section 213.8 of the Act.

Implementation of Coastal Use Permit Program

DNR will issue permits, monitor permitted uses to ensure compliance, and recommend enforcement measures for violations under the state coastal use permitting program. In this capacity, DNR is required to develop rules and regulations for various permitting functions, including permit procedures, Section 213.11(B); emergency actions, Section 213.11(F); general permits, Section 213.11(E); and exemptions, Section 213.15(B).

Delineation of Uses of State and Local Concern

DNR is responsible, in conjunction with the secretaries of DWF and DOTD, for the development of rules for the further delineation, classification, modification, and change of classification of uses of state concern and uses of local concern, Section 213.5(C)

Provision of Assistance to Local Governments

DNR is responsible for providing financial and technical assistance to local governments to develop, implement, and administer local coastal management programs pursuant to Section 213.39(J) of the Act.

Designation and Management of Special Areas

DNR is responsible for the development of rules for the identification, designation, and utilization of special areas and the establishment of guidelines or priorities of uses in each area pursuant to Section 213.10(B) of the Act. In addition, DNR is responsible for providing financial and technical assistance to local governments for special projects and special areas pursuant to Section 213.10(E) of the Act.

Designation and Management of Special Areas

DNR is responsible for the development of rules for the identification, designation, and utilization of special areas and the establishment of guidelines or priorities of uses in each area pursuant to Section 213.10(E) of the Act. In addition, DNR is responsible for providing financial and technical assistance to local governments for special projects and special areas pursuant to Section 213.10(E) of the Act.

Boundary Delineation

DNR is required to adopt a fully delineated and mapped coastal zone boundary, including voluntary amendments to follow the corporate limits of any municipality divided by the boundary pursuant to Section 213.4(D) of the Act (see Chapter III).

Consistency Determinations

The Secretary is responsible for making determinations whether permits issued by or activities conducted by state and federal agencies are consistent with the state program and approved local programs pursuant to Section 213.13(C) of the Act. However, consistency determinations involving activities carried out under the Secretary's authority shall be made by the Governor.

Review of Deepwater Port Activities

DNR will ensure that the activities of deepwater ports, which do not require a coastal use permit, are consistent with the LCRP and affected approved local programs pursuant to Section 213.12 of the Act.

Shoreline Indexing and Freshwater Diversion Planning

DNR is responsible for implementing the critical wetland, coastline and barrier island indexing system, barrier island projects and freshwater diversion plans pursuant to Section 213.10(G) and (F) of the Act.

Development of Coordinated Permit Process

DNR is required to develop a coordinated permitting process in cooperation with other governmental bodies, pursuant to Section 213.14(B) of the Act.

Provision of Staff for the Louisiana Coastal Commission

DNR is responsible for providing staff functions for the Louisiana Coastal Commission pursuant to Section 21.37(A) of the Act.

Research and Planning

DNR is to conduct investigations, studies, planning and research pursuant to Section 213.6(B)(2) of the Act.

2) Louisiana Coastal Commission

The Louisiana Coastal Commission (LCC or Commission) was established by Act 361 as an independent body within the Department of Natural Resources with staff functions being provided by DNR. The LCC is responsible for a broad range of activities relating to both the development and implementation of the LCRP.

In setting forth the composition of the LCC, the Legislature sought to ensure the representation of a broad range of local government, state agency and private economic and social interests. The LCC is composed of 23 members, one appointed by each of the local governing authorities of the parishes of Cameron, St. Tammany, Vermilion, Iberia, St. Mary, Terrebonne, Lafourche, Jefferson, Plaquemines, St. Bernard and Orleans. In addition, the Governor appoints 11 members representing the following interests: the oil and gas industry; agriculture and forestry; commercial fishing and trapping; sport fishing, hunting and outdoor recreation; ports, shipping and transportation; preservation and environmental protection; coastal landowners; municipalities; the utility industry; producers of solid minerals; and industrial development. The Secretary of the Department of Wildlife and Fisheries is a voting member.

Of the Governor's appointees, one is from Calcasieu Parish; one from St. Charles; one from St. John the Baptist; one from Tangipahoa Parish and one from St. James Parish. All appointments by the Governor to the Commission must be confirmed by the Senate. Local governments and the Governor have also appointed an alternate for each of the members that they appoint. Please refer to Appendix k for the names of the present LCC members. All members of the LCC serve at the pleasure of the appointing authority. Their terms are two years. The LCC is required to meet as often as necessary to conduct its business, but not less frequently than once every three months. A quorum consists of at least 12 members of the Commission. The primary functions of the Commission are as follows:

Development of Coastal Use Guidelines

The LCC plays an important role in development of the coastal use guidelines by having the authority to approve or disapprove guidelines. Only those guidelines approved by the LCC, by the Natural Resources Committees of the Legislature or the Governor pursuant to the review and approval process set out in Section 213.8(B) of the Act, will become part of the LCRP.

Appeals of Permit Decisions Made Under the State Program and Approved Local Programs

The LCC is the appeals body for coastal use permit decisions made by DNR or local governments with approved local programs pursuant to Section 213.7(A) of the Act.

Approval of Local Programs

The LCC is the appeals body for decisions of the Secretary on the approval of local programs pursuant to Section 213.7(A) and 213.9(G) of the Act.

Guidelines and Priorities of Uses in Special Areas

The LCC reviews the specific guidelines and priorities of uses for special areas designated pursuant to Section 213.10(B) of the Act.

Uses of State and Local Concern

The LCC is the appeals body for decisions as to whether a proposed use is a use of state or local concern pursuant to Section 213.11(C)(1) of the Act.

Periodic Review of Guidelines

The LCC may act as a review board to recommend changes in the program guidelines to insure that the program functions efficiently and fulfills the goals for which it was developed..

Periodic Review of the Program

The LCC may act as a public sounding board for review of the administration of the LCRP. This could provide for ongoing review of the program to ensure that it functions efficiently and accomplishes the goals of balancing conservation and development.

3) Local Governments

Act 361 provides parishes located within the coastal zone a unique opportunity to play an important role in further development and implementation of the LCRP. Parishes are authorized, though not required, to develop local coastal management programs for approval by DNR pursuant to Section 213.9 of the Act. Once its local program is approved, a parish may administer the coastal use permitting program for uses of local concern proposed within the parish and received implementation funding from the state on a matching fund basis provided under Section 213.9(J). State agencies are also required to coordinate with the local governments with approved programs to assure that their actions affecting the coastal zone are consistent with the local program pursuant to Section 213.13(B) of the Act. Federal agencies must also ensure that their actions are consistent with such programs (Section 307, CZMA). Moreover, coastal use permits issued by DNR and in-lieu permits issued by OC/DNR must also be consistent with approved local programs. In summary, while local government participation in the LCRP is not required by Act 361, the participation of most parishes in the development of the LCRP to date and the benefits from further participation noted above indicate that most, if not all, parishes will seek to develop local coastal programs.

4) State Agency Roles

Several state agencies, in addition to the DNR, will play key roles in the implementation of the LCRP. These include new roles for the Department of Transportation and Development and Wildlife and Fisheries prescribed by Act 361 and pre-existing responsibilities which have been incorporated into the LCRP by DNR pursuant to Section 213.13 of Act 361.

Act 361 provides the Department of Wildlife and Fisheries (DWF) and Department of Natural Resources (DNR) with specific functions in the LCRP development process. The Secretaries of DWF and DNR participated

with DOTD in the development and review of the coastal use guidelines pursuant to Section 213.8(C) of the Act. DWF and DNR also participated with DOTD in developing rules for further delineation and modification of the list of uses of state concern or local concern which will be subject to the coastal use permit program.

In cooperation with DNR, both DOTD and DWF will participate in determining whether the activities of, and permits issued by, certain other state agencies are consistent with the state program and approved local program, pursuant to Section 213.12(D) of the Act. The Office of Conservation of the Department of Natural Resources (OC/DNR) will also be responsible for the issuance of in-lieu permits pursuant to Section 213.12 of the Act.

Act 361 also provides for inclusion of existing state regulatory and nonregulatory programs in to the LCRP in order to achieve the overall purposes of the Act. The following are summaries of existing state agency responsibilities for the programs that will be included in the LCRP.

Department of Natural Resources (DNR)

DNR has primary responsibility for the conservation, management, and development of water, minerals, timber, and other natural resources of the state, for the administration and supervision of state lands and for air and water quality, solid and hazardous waste management and nuclear energy and radiation control. Within this department, but retaining independent authority and control over their functions, are the Commissioner of Conservation in the Office of Conservation, the State Mineral Board in the Office of Mineral Resources, and the Environmental Control Commission in the Office of Environmental Affairs.

Department of Transportation and Development (DOTD)

The Department of Transportation and Development's activities in the coastal zone include the construction of state highways, handling of public works projects, setting standards of water wells and comment authority on pipeline crossings and obstructions of levees.

Department of Wildlife and Fisheries (DWF)

In addition to the roles and responsibilities provided by Act 361, the Department of Wildlife and Fisheries has primary responsibility for the control and supervision of the wildlife and fisheries of the state, including the management, protection, conservation and replenishment of wildlife, fish and aquatic life; the management of wildlife management areas, refuges and preserves; aquatic weed control; scenic rivers; shell dredging; and the granting of oyster leases.

Department of Health and Human Resources (DHHR)

This department shall be primarily responsible for the development and providing of health, medical, and social services for the prevention of disease and for certain aspects of protecting the environment, including oyster and shell fish control, sewage disposal, noise, and noxious odors.

Department of Culture, Recreation and Tourism (DCRT)

This department shall have primary responsibility for the development, maintenance, and operation of library, park, recreation, museum, and other cultural facilities; the statewide development and implementation of cultural, recreational, and tourism programs; and planning for future leisure needs. DCRT's responsibilities for protecting archaeological and historical sites in the coastal zone will be coordinated with the LCRP

Department of Public Safety (DPS)

DPS's responsibility for certain aspects of pipeline safety will need to be coordinated with the LCRP.

C) METHODS OF PROGRAM IMPLEMENTATION

This section will describe the various means that the State will use to implement the policies of the LCRP discussed in Chapter II of this document. The implementation of the LCRP will be based on a combination of five implementation mechanisms distinguishable by the procedures utilized to manage various activities. These five procedures are for the management of:

- Activities subject to the coastal use permit program.
- Activities subject to existing state permit programs incorporated into the LCRP.
- Activities of deepwater ports exempted from the coastal use permit process.
- State and local government activities not requiring a coastal use permit, but directly affecting the coastal zone.
- Federal government activities directly affecting the coastal zone and Federal license and permits for activities affecting the coastal zone.

The uses subject to management pursuant to the LCRP include those activities subject to the five review procedures noted above. The uses exempt from LCRP review basically include all activities exempted from the various review procedures listed above, i.e., those uses specifically exempted from the coastal use permit process and other state permit programs incorporated into the LCRP and federal, state and local government actions which do not directly affect the Louisiana coastal zone. Both categories will be more explicitly described in the remaining sections of this chapter.

The uses subject to management listed above will be managed using approaches described in first two techniques of control provided for in Section 306(e)(1) of the CZMA: Local implementation of criteria established by the state (Section 306(e)(1)(A)); and direct state land and water use regulations (Section 306(e)(1)(3)). The principal means of implementing the program will be the direct state control technique. DNR and other

state agencies will ensure that uses in the coastal zone comply with the policies of the program through implementation of the coastal use permit program and the OC/DNR in-lieu permit program, both of which will be administered consistently with the coastal use guidelines, other state agencies will implement their policy mandates through their own permit programs.

Local governments may however voluntarily develop and submit a local coastal program for review and approval by DNR pursuant to procedures meeting the requirements of Section 306(E)(1)(A) of the CZMA and Section 213.9 of Act 361. After approval of its local program by DNR, a local government is delegated the responsibility for the management of a set of uses, i.e., uses of local concern. DNR retains the authority to directly regulate the remaining class of uses, i.e., uses of state concern.

The remainder of this section will describe in detail how each of the above review procedures will be used to implement the policies of the LCRP, with the exception of the federal consistency procedures which are discussed in Chapter VI.

1) The Coastal Use Permit Program

Act 361 provides for the development of the coastal use permit program as the principal means of implementing the policies contained in the Act and the coastal use guidelines developed pursuant to the Act. The coastal use permit program will be implemented by both DNR and local governments. Initially, the coastal use permit program will be implemented entirely by DNR, with local governments assuming a portion of the permit responsibilities as their local coastal programs are approved by DNR.

In addition to mandating the development of the coastal use guidelines, included in Chapter II of this document, Act 361 requires the development of additional substantive and procedural rules related to among other things, the implementation of the coastal use permit program. The rules have been developed by DOTD and approved by the Senate and House Natural Resource Committees. These rules are included in Appendix cl of this document. Of principal importance to the implementation of the coastal use permit program are the following rules:

Appendix cl

- rules identifying uses requiring a coastal use permit and permit procedures promulgated pursuant to Section 213.11(B) of the Act.
- rules identifying uses not requiring a permit pursuant to Section 213.15(B) of the Act.
- procedures for emergency repairs pursuant to Section 213.11(F) of the Act.

- rules and procedures for permit application, issuance and denial pursuant to Section 213.11(B) of the Act.
- rules for modifying, suspending, or revoking coastal use permits pursuant to Sections 213.11(B) and 213.17(C) of the Act.
- rules for the issuance of general permits pursuant to Section 213.11(E) of the Act.
- procedures for determining whether a proposed use is a use of local or state concern pursuant to Section (C) of the Act.

Appendix c2

- rules for the development and approval of local programs pursuant to Section 213.98(B) of the Act.

Appendix c3

- rules for public hearings pursuant to Section 213.11(C)(6).

Appendix c5

- procedural rules for the hearing of appeals by the Louisiana Coastal Commission pursuant to Section 213.11(G)(1).

Appendix c6

- definitions to be used in implementing the LCRP.

The above rules and other rules included in Appendix c are final rules, with notice of intent to adopt such rules having been published in the Louisiana Register. These rules will become effective on September 20, 1980.

The remainder of this section will discuss the uses subject to the coastal use permit program, the process for the development and approval of local coastal programs and a brief summary of the coastal use permit process.

Uses Subject to the Coastal Use Permit Program

Act 361 provides guidance as to whether uses are subject to the coastal use permit process, whether such uses should be uses of state or local concern, and identifies a set of activities which are exempt from the coastal use permit process.

Section 213.3(3) of Act 361 defines a “use” subject to the coastal permit program as “any use or activity within the coastal zone which has a direct and significant impact on coastal waters.” “Coastal waters” are defined in Section 213.3(3) to include:

“Bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone which have measurable seawater content (under normal weather conditions) over a period of years.”

In order to provide additional guidance to persons undertaking uses within the coastal area, the DNR has identified in rules and procedures for coastal use permits, promulgated pursuant to Section 213.11(B) of the Act (contained in Appendix cl, Part 1), those uses occurring within the coastal zone boundary which shall require coastal use permits or in lieu permits from OC/DNR unless exempted by Act 361 or regulations of DNR. These uses are :

- “1. Dredging or filling and discharges of dredged or fill material.
2. Levee siting, construction, operation and maintenance.
3. Hurricane or flood protection facilities, including siting, construction, operation and maintenance of such facilities.
4. Urban development, including the siting, construction and operation of residential, commercial, industrial and governmental structures, and transportation facilities.
5. Energy development activities including siting, construction, and operation of generating, processing and transmission facilities, pipeline facilities, and exploration for and production of oil, natural gas, and geothermal energy.
6. Mining activities, including surface, subsurface, and underground mining, geothermal energy, sand or gravel mining and shell dredging.
7. Wastewater discharges, including point and non-point sources.
8. Surface water control or consumption, including marsh management projects.
9. Shoreline modification projects and harbor structures.
10. Waste disposal activities.
11. Recreation developments, including construction and operation of public and private recreational facilities and marinas.
12. Industrial development including siting, construction and operation of such facilities.
13. Any other activities or projects that would require a permit or consent from the U.S. Army Corps of Engineers, the Environmental Protection Agency or the Louisiana Department of Natural Resources.

14. Activities which impact barrier islands, salt domes, cheniers, and beaches.
15. Drainage projects.”

Section 213.15 of the act provides that the following uses, which normally do not have direct and significant impact on coastal waters, are exempt from the coastal use permit program, except as provided for below in items (1) and (2):

- “(1) Activities occurring wholly on lands five feet or more above mean sea level except when the Secretary finds, subject to appeal to the Commission, that the particular activity would have direct and significant impacts on coastal waters.
- (2) Activities occurring within fast lands except when the secretary finds, subject to appeal to the Commission, that the particular activity would have direct and significant impacts on coastal waters.
- (3) Agricultural, forestry, and aquaculture activities on lands consistently used in the past for such activities.
- (4) Hunting, fishing, trapping, and the preservation of scenic, historic, and scientific areas and wildlife preserves.
- (5) Normal maintenance or repair of existing structures including emergency repairs of damage caused by accident, fire, or the elements.
- (6) Uses and activities within the special area established in Section 213.10(C) which have been permitted by the Offshore Terminal Authority in keeping with its environmental protection plan.
- (7) Construction of a residence or camp,
- (8) Construction and modification of navigational aids such as channel markers and anchor buoys.”

“Fastlands,” on which certain activities would be exempt, are defined in Section 213.3(9) as:

“Lands surrounded by publicly owned, maintained, or otherwise validly existing levees, or natural formations, as of the effective date of this Part or as may be lawfully constructed in the future, which levees or natural formations would normally prevent activities, not to include the pumping of water for drainage purposes, within the surrounded area from having direct and significant impacts on coastal waters.”

Any use or activity which, prior to the initiation of the coastal use permit program, has been lawfully commenced in good faith and for which

all required permits have been obtained is consistent with the Coastal Management Program and no coastal use permit is required for it (see Appendix cl, Part II, H(1)b). Moreover, such use or activity shall thereafter be consistent with the program even if renewals of previously issued permits become necessary or if new permits are required by other governmental bodies provided that there is no significant change in the nature, shape, size, location or impacts of the use or activity. To be so exempted, a use or activity must have met the following requirements prior to the date of the coastal use permit program:

- “1) Actual construction or operation of the use or activity must have been begun, in good faith; and
- 2) All permits, licenses and clearances required by governmental bodies must have been obtained and the use or activity must be in compliance with them; and,
- 3) No significant change in the nature, size, location or impacts of the use or activity take place.”

The rules contained in Appendix cl further clarify situations when permits will not be required when undertaking a use necessary to correct emergency situations pursuant to Section 213.11(F) of the Act and procedures to be utilized in the granting of general permits for small scale uses pursuant to Section 213.11(B) of the Act.

In response to comments received on the DEIS, a new Part VII was added to the rules in Appendix cl. The new part provides for a process by which a person can request that the Administrator determine whether or not a coastal use permit is required for a proposed activity. Also, the Administrator can determine that a permit is not required after reviewing a coastal use permit application. Public notice of all such decisions is to be given and appeals to the LCC are available.

Act 361 also provides guidance as to those uses which are most appropriately managed by either the state or local level of government through the coastal use permit program. Section 213.13 of the Act defines these two classes of uses as “uses of state concern” and “uses of local concern.” Until such time as local coastal programs are approved by DNR pursuant to the procedures summarized below, DNR will be responsible for permitting both types of uses. Upon approval of its local program, a local government will be granted the authority to issue permits for uses of local concern. The permitting of uses of state concern, however, remains the responsibility of DNR regardless of the status of the local program for the area within which a use is proposed.

Act 361, Section 213.5(A)(1), provides the following uses of state concern:

“Uses of state concern: Those uses which directly and significantly affect coastal waters and which are in need of coastal

management and which have impacts of greater than local significance or which significantly affect interests of regional, state, or national concern. Uses of state concern shall include, but not be limited to:

- (a). Any dredge or fill activity which intersects with more than one water body.
- (b) Projects involving use of state owned lands or water bottoms.
- (c) State publicly funded projects.
- (d) National interest projects.
- (e) Projects occurring in more than one parish.
- (f) All mineral activities, including exploration for and production of, oil, gas, and other minerals, all dredge and fill uses associated therewith, and all other associates uses.
- (g) All pipelines for the gathering, transportation or transmission of oil, gas and other minerals.
- (h) Energy facility siting and development.
- (i) Uses of local concern which may significantly affect interest of regional, state or national concern.”

Uses of local concern are defined and listed in Act 361, Section 213.5(A)(2) as:

“Uses of local concern: Those uses which directly and significantly affect coastal waters and are in need of coastal management but are not uses of state concern and which should be regulated primarily at the local level, if the local government has an approved program. Uses of local concern shall include, but not be limited to:

- (a) Privately funded projects which are not uses of state concern.
- (b) Publicly funded projects which are not uses of state concern.
- (c) Maintenance of uses of local concern
- (d) Jetties or breakwaters.
- (e) Dredge or fill projects not intersecting more than one water body.
- (f) Bulkheads.
- (g) Piers.
- (h) Camps and cattlewalks.
- (i) Maintenance dredging.
- (j) Private water control structures of less than \$15,000 in cost.
- (k) Uses on cheniers, salt domes, or similar land forms.”

In order to provide for the orderly determination of whether a proposed use is a use of state or local concern in cases where a uses is proposed in a parish with an approved local program and there is insufficient guidance contained in the above statutory language, Section 213.5 (C) and

213.11(C) of the Act provide for the development of rules by CNR setting forth procedures for the determination as to whether a proposed use is a use of state or local concern. Proposed DNR rules for such determinations are contained in Appendix cl, Part VI. Pursuant to the legislative policy set forth in Section 213.11(C)(1), the initial determination shall be made by the local government, subject to review and approval of the administrator of the Coastal Management Section of DNR, whose determination may be appealed by the local government to the LCC. Criteria for such determinations are found in Appendix cl, Part VI, c and are as follows:

- “(a) The specific terms of the uses as classified in the Act,
- (b) The relationship of a proposed use to a particular use classified in the Act,
- (c) If a use is not predominately classified as either state or local by the Act or the use overlaps the two classifications, it shall be of local concern unless it:
 - 1. Is being carried out with state or federal funds,
 - 2. Involves the use of, or has significant impacts on, state or federal lands, water bottoms or works,
 - 3. Is mineral or energy production and transportation related,
 - 4. Involves the use of, or has significant impacts on, barrier islands or beaches or any other shoreline which forms part of the baseline for Louisiana’s offshore jurisdiction.
 - 5. Will result in major changes in the quantity or quality of water flow and circulation or in salinity or sediment transport regimes, or
 - 6. Has significant interparish or interstate impacts.”

Local Government Role in the Coastal Use Permit Program

One of the major objectives of the development phase of the LCRP has been to support the development of local government coastal management capabilities. The primary means of accomplishing this has been through financial and technical assistance. The involvement of individual parishes in developing local coastal management programs began in fiscal year 1976-77. Table 6 indicates the amount of federal Section 305 program development funds which have been spent to support local planning efforts.

TABLE 6

FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS

	<u>Federal</u>	<u>Local Match</u>	<u>Total</u>
1976-77	\$225,000	\$112,500	\$337,500
1977-78	\$450,000	\$112,500	\$562,500
1978-79 (6 months)	\$482,000	\$160,000	\$642,000
May 1979-April 1980	<u>\$178,990</u>	<u>\$ 74,943</u>	<u>\$253,933</u>
	\$1,335,990	\$459,943	\$1,795,933

Act 351 continues this objective by providing for a strong local role in the development and implementation of the LCRP. Once its program has been approved by DNR, pursuant to standards and criteria provided by the Act, the following benefits become available to a local government:

- 1) Uses of local concern proposed within the parish's coastal zone shall be subject to the issuance of coastal use permits by local government.
- 2) The coastal use permit decision by DNR for uses of state concern proposed within the parish's coastal zone must be consistent with the state program and the approved local program. In all instances local government comments shall be given substantial consideration.
- 3) Governmental bodies shall fully coordinate their activities directly affecting the coastal zone with the state program and affected approved local programs to ensure consistency.
- 4) The parish shall be eligible for implementation funding on a matching grant basis to be provided by DNR.

Although the state believes that the development and approval of local coastal programs is in the best interests of both the state and each individual parish, and will continue to make available financial and technical assistance to support such activities, it must be understood that the development, approval and implementation of local coastal programs is not required for the implementation of the enforceable policies of the program. This is because DNR will be responsible for the permitting of uses of both state and local concern upon implementation of the coastal use permit process. Thus if one or several parishes voluntarily decide not to develop local programs or are unable to develop a local program which is approvable pursuant to the standards and criteria provided by Act 361 and rules developed thereto, DNR retains the authority to implement the policies of the coastal use guidelines through direct state implementation of the coastal use permit program. It should also be noted that Section 213.9(H)(3) provides that DNR has the ability to monitor local implementation of its program to ensure that proposed uses are consistent with the approved.

local program. In cases where the administrator of the Coastal Management Section of DNR determines that a local program is not being implemented consistently with the approved program or the state program, the approval of the local programs may be revoked. If this occurs the authority to issue coastal use permits will revert back to the DNR.

The Local Coastal Management Program Development and Approval Process

Section 213.9 requires that the DOTD develop and adopt, after notice and public hearing, rules and procedures for the development, approval, modification and periodic review of local programs. Section 213.9(C) provides that:

The rules and procedures adopted pursuant to this Section shall be consistent with the state guidelines and shall provide particularly, but not exclusively, that:

- “(1) Local government, in developing local programs, shall afford full opportunity for municipalities, state and local government bodies, and the general public to participate in the development and implementation of the local program.
- (2) A public hearing to receive comments on a proposed local program shall be held in the area to be subject to the program by the local government proposing the program or its duly appointed local committee.
- (3) A local program developed under this Section shall be consistent with the state guidelines and with the policies and objective of this part and particularly, but not exclusively, consist of:
 - (a) A description of the natural resources and the natural resource users of the coastal zone area within the parish, the social and economic needs within particular areas of the coastal zone of the parish, and the general order or priority in which those needs which directly and significantly affect coastal waters should be met within the coastal zone of the parish.
 - (b) Procedures to be used by the local government to regulate uses of local concern.
 - (c) Special procedures and methods for considering uses within special areas, uses of greater than local benefit, and uses affecting the state and national interest.”

The final rules adopted by DNR pursuant to the above section of the Act are included in their entirety in Appendix C2.

The Coastal Use Permit Process

One of the purposes and goals of Act 361 is to expedite the permitting process by cutting red tape. Most applications should be processed and

the decision upon them rendered within a 45-day period; those requiring a public hearing and those the decisions upon which are appealed will take a longer period. The permit review process is typical of many such procedures; however, it is to be conducted within a limited time frame. The following is a brief summary of the permit process as set forth in the Rules and Procedures for Coastal Use Permits found in Appendix cl.

Permit applications are submitted to DNR or a local government with an approved program. If it is submitted to the local government, a copy is sent to DNR within two (2) days.

Within 10 days of receipt of an application, DNR will give public notice of the application, distribute copies to appropriate state, federal and local agencies and request public and governmental comment. The decision as to whether a public hearing should be held will be made during the document period. If the application is found to be incomplete or inaccurate after the review has begun or if additional information from the applicant is necessary in evaluating the application, the processing will be stopped until the information is provided.

The application will then be reviewed for compliance with the guidelines, the other laws and regulations incorporated into the LCRP, relevant local programs and other of the LCRP. A field inspection may be made. Within 30 days of the public notice or within 15 days after the public hearing, a decision to approve or deny the permit must be made. If the permit is proposed to be granted, a draft will be sent to the applicant for his acceptance of the permit conditions. Upon return of the signed draft and signature by the permitting official, the permit is issued. Public notice of the decision on the permit is given.

Within 30 days after public notice of the decision, the applicant, the Secretary of DNR, an affected local government or affected local, state or federal agency, an "aggrieved person" or any person adversely affected by a decision may appeal to the Coastal Commission. Such appeals are heard at public hearings and are adjudicative in nature. Within 45 of receipt of the appeal petition, the Commission must make its decision.

At this point--and only at this point--may judicial review of the administrative decision be sought. The Act requires the courts to give "preference and priority" to any such case and allows trial de novo to be held. Trials will be held in the parish where the use is situated.

Program Implementation and Monitoring

The DNR is currently refining the administrative mechanisms necessary to implement the coastal use permitting process. These efforts include increasing the size of the staff of the Coastal Management Section of DNR and the establishment of procedures whereby the Department of Wildlife and Fisheries (DWF) and Department of Natural Resources (DNR) staff will assist in program implementation and monitoring.

The staff of the Coastal Management Section is currently being expanded with plans calling for a doubling of in-house professional and clerical staff prior to program implementation. Current plans also call for legal assistance to be provided to the Coastal Management Section by both DNR's legal section and the LSU Sea Grant Legal Program.

The Administrator of the Coastal Management Section of DNR is directed in Section 213.6(B)(3) of Act 361 to systematically monitor and conduct surveillance of permitted uses to ensure that conditions of coastal use permits are satisfied. To accomplish this, the LCRP has contracted with DWF to develop a process to conduct field investigations by trained personnel to determine if the conditions of the permits have been met. The field personnel in DWF will also do field investigation of selected permit applications to provide additional information on the proposed site, likely impacts and feasible alternatives. A field investigation checklist of relevant environmental indicators is being developed by DWF in conjunction with the technical support group within the Coastal Management Section of DNR. The data from these investigations will be computerized to provide additional sources of biological and ecological information about the coastal area.

Monitoring will also be accomplished through an agreement with Office of Conservation of the Department of Natural Resources (OC/DNR). Presently OC/DNR conducts field investigations at numerous stages of oil, gas and mineral exploration, production and abandonment activities. In carrying out their "in-lieu" permit responsibilities, these field investigations will assure that these mineral activities are conducted consistently with the guidelines. CMS/DNR will also work with state and federal agencies to coordinate the use of high altitude photography as a means to monitor changes in coastal land use and environmental conditions. These efforts are further discussed in Chapter VII..

Enforcement and Penalties

Section 213.17(A) of Act 361, requires the Administrator and each local government with an approved program to initiate a field surveillance program to ensure enforcement of the management program. The LCRP will rely on DWF and OC-DNR to provide field personnel that will monitor the coastal area for compliance to the conditions of the coastal use permit and for non-complying uses.

The Secretary of DNR and each local government with an approved program has the authority pursuant to Act 361, Section 213.17(B) to issue cease and desist orders or suspend, revoke, or modify coastal use permits. Also the Secretary, the Administrator, the Attorney General or local governments with an approved program, may bring injunctive or declaratory actions to ensure that no uses are made of the coastal zone which have not been permitted or do not comply with the conditions of the coastal use permit.

Section 213.17(E) of Act 361, authorizes the court to impose civil liability, assess damages, require restoration or impose other reasonable sanctions for uses conducted with the coastal zone that have not received coastal use permit. The court may also impose a fine of not less than one hundred dollars (\$100.00) or not more than five hundred dollars (\$500.00), or imprisonment for not more than ninety (90) days, or both for violation of any of the rules and regulations of the LCRP or terms or conditions of the coastal use permit.

Civil Enforcement for the LCRP will be primarily handled by the Legal Section of DNR. Criminal enforcement will be handled by the appropriate district attorney's office.

2) Activities Subject to Existing State Permit Programs Incorporated Into the LCRP

Act 361 provides for the incorporation of existing state regulatory programs into the LCRP in order to provide comprehensive management of uses that may have direct and significant impacts on the coastal waters (Section 213.8(A), Act 351). The regulatory programs incorporated into the LCRP are listed and described in Appendix 1 of this document. The incorporated permit programs include the two which Act 361 incorporated directly into the LCRP in lieu of a coastal use permit (DNR's permits for oil, gas and other minerals and DWF's oyster bedding grounds program)(Section 213.2(B) and (C), Act 361), air and water quality permits, and other state permits that manage activities that often affect coastal resources.

Another reason for the inclusion of such permit programs is to identify for private and public applicants the most likely state permits that will be required for activities in or affecting the coastal zone. Pursuant to Section 213.4 of Act 361, the Secretary will cooperate with the agencies responsible for state permits to expedite and streamline state and federal permitting through a coordinated coastal permitting process described in Chapter VII.

In-Lieu Permits

Section 213.12(B) of the Act provides for DWF and OC/DNR issuance and administration of in-lieu permits for the activities set forth in these provisions. Under this provision, permits issued pursuant to existing statutory authority by the Office of Conservation in DNR for the location, drilling, exploration and production of oil, gas, sulphur and other mineral and permits issued pursuant to existing statutory authority by the DWF for the seeding, cultivation, planting or marking of oyster bedding grounds are to be issued in-lieu of the coastal use permits. However, such permits must be consistent with the coastal use guidelines, the state program and affected approved local programs. CMS/DNR has developed a memorandum of understanding with OC/DNR to insure the successful implementation of the in-lieu permit process (see Section E, Memorandum of Understanding, below).

Although DWF has statutory authority over oysters, including the granting of oyster leases, its statutory authority does not extend to the issuance of permits for the leasing, seeding, planting, harvesting or marking of oyster bedding grounds. Consequently, as there is no overlap between DWF functions and the implementation of the coastal use permit program, no MOU between DWF and CMS/DNR is necessary.

Other State Permits

As indicated above, several other state regulatory programs have been incorporated into the LCRP. These programs will continue to implement their own statutory mandates without direct reference to the coastal use guidelines. Since most major activities requiring a coastal use permit will also require one or more other state permits, the CMS/DNR will, however, seek to coordinate the coastal use permit review with the review procedure of other state permits. This coordination will include the sharing of information and the development of the coordinated permit process described in Chapter VII. The major state permit programs incorporated into the LCRP are summarized below (please refer to Appendix I for a complete listing).

- Oil, Gas and Mineral Operation Permits Certain aspects of oil, gas and other mineral activities in the coastal zone will require a permit from OC/DNR pursuant to its statutory authority. Permits for these specific activities will be issued in-lieu of coastal use permits (see In-lieu Permits Section above). Because of the state and national interest in facilitating energy production while at the same time avoiding or minimizing adverse impacts to coastal resources, these permits will be closely coordinated with the LCRP at the state and local level. Where appropriate, joint applications for state and federal permits applicable to these activities will be prepared as part of the LCRP. The Secretary of DNR has signed an MOU with OC/DNR that will facilitate the overall state permitting process for these activities
- State Lands Management The proprietary activities of the state related to state owned waterbottoms, wetlands, and other state owned areas often directly affect the coastal zone. When a state agency conducts its own activities in the coastal zone, Act 361 requires that it ensure that its activities are consistent to the maximum extent practicable with the LCRP and any approved local program through the coastal use permit program. Private parties will also need a coastal use permit whenever the use of state lands directly and significantly impacts coastal waters.
- Air and Water Quality Permits Section 307(f) of the CZMA requires that the federal and state requirements of the Federal Water Pollution Control Act and the Clean Air Act shall be incorporated into all state coastal management programs, and shall be the water pollution control and air pollution control requirements of the state program. The LCRP incorporates existing state air and water programs as required. As mentioned in Section B of this Chapter, these programs will be the responsibility of the new Office of Environmental Affairs (OAE) in DNR as of January 1, 1980.

- Solid, Nuclear, and Hazardous Waste Permits Because of the potential adverse impacts from activities related to the transportation, storage, and use of waste products on the coastal zone, the existing state permit programs controlling these activities have been incorporated into the LCRP. In the future, these permits will also be the responsibility of OEA in DNR. It is a primary objective of the LCRP that adverse impacts on coastal resources from these activities will be avoided or minimized.

3) Deepwater Port Activities

Act 361 provides for special procedures for the management of deepwater port activities. Section 213.13 provides:

“Deepwater port commissions and deepwater port, harbor and terminal districts, as defined in Article VI, Sections 43 and 44 of the Louisiana Constitution of 1974, shall not be required to obtain coastal use permits. Provided, however, that their activities shall be consistent to the maximum extent practicable with the state program and affected approved local programs.”

Deepwater port commissions and deepwater port, harbor and terminal districts are defined in Article VI, Section 44(7) of the 1974 Constitution as “those commissions or districts within whose territorial jurisdiction exist facilities capable of accommodating vessels of at least twenty-five feet of draft and of engaging in foreign commerce.” The only ports in Louisiana that meet this criteria are: the Port of Lake Charles, the Port of Greater Baton Rouge, the South Louisiana Port Commission, the Port of New Orleans and the Port of Plaquemines. The Port of Baton Rouge is entirely outside of the coastal zone. All activities of the South Central Louisiana Port Commission are on the Mississippi River. While many activities of the Port of New Orleans are located on the Mississippi River, they also conduct extensive activities in the tidewater area, the Innerharbor Navigation Canal, the Industrial Canal, the Mississippi River-Gulf Outlet, and the Gulf Intracoastal Waterway.

The Coastal Resources Program will utilize two methods to assure that the actions and activities of these deepwater ports are consistent with the Coastal Resources Program and affected approved local programs. The first is through the consistency review procedure provided for in Section 213.13(D), and the other through memoranda of understanding entered into with port, harbor and commissions when appropriate.

To implement the first method of assuring consistency of the deepwater port activities, the LCRP will, on an ongoing basis, monitor port activities including A-95 materials submitted by ports, to determine if any port activities have not previously been coordinated with the Secretary. If some are found to be inconsistent with the LCRP, the Secretary shall notify the Secretaries of DNR and DWF, and the affected deepwater port commission, pursuant to 213.13(D) of the Act. Section 213.13(d) requires that the port authorities coordinate with the Secretaries. Comments from the Secretaries must, to the maximum extent practicable, be incorporated

into the action commented on. If the port authority does not follow these requirements, mandamus would be available.

Because of the location and number of activities of the port of New Orleans in coastal areas, an interim memorandum of understanding has been entered into the Port of New Orleans until such time as, and if, it is designated as a Special Area. This Memorandum of Understanding provides that the Port will coordinate with the LCRP staff on activities at early planning stages and at least prior to requesting permits from other governmental agencies. The memorandum of understanding is contained in Appendix n.

The utilization of the Special Area designation is being seriously considered for the Port of New Orleans because of the nature of the impacts of port development activities and plans on coastal areas and because of the critical importance of the port to the economy of the state. A more detailed explanation of this proposal is set forth in Chapter V. If, in the future, such a designation would be appropriate for other deepwater ports, full consideration will be given to such a course of action.

4) State and Local Government Activities Directly Affecting the Coastal Zone

Section 213.13(B) of the Act provides:

“Any governmental body undertaking, conducting, or supporting activities directly affecting the coastal zone shall insure that such activities shall be consistent to the maximum extent practicable with the state program and any affected approved local program having geographical jurisdiction over the action.”

Coastal use permits are required for governmental actions having direct and significant impacts on coastal waters, e.g. development projects, that occur in the coastal zone, thereby assuring consistency with the program. However, governmental actions outside the coastal zone and those exempted from the coastal use permitting process are also to be consistent if they directly affect the coastal zone. These activities will generally fall into two categories: (1) the governmental body carries out a development project outside the coastal zone that directly affect the coastal zone, (2) the governmental body funds or plans a development project. Assurance that these activities are consistent with the LCRP will be through two methods.

The first method is agency coordination procedures set forth in memoranda of understanding between CMS/DNR and other governmental bodies.

These MOU's will specify that the other agencies will conduct their activities consistent with the guidelines and coordinate with the LCRP at early planning stages to assure consistency. In this regard, it must be pointed out that other state laws presently require any state agency conducting activities which affect state-owned water bodies to coordinate with the Office of Public Works and the department of Wildlife and Fisheries for engineering suitability and impacts on wildlife and fishery activities. MOU's

the Office of Public Works and the Department of Wildlife and Fisheries for engineering suitability and impacts on wildlife and fishery activities. MOU's with state agencies will assure that they will coordinate their review with the guidelines and notify the LCRP staff of any activities that may directly affect the coastal zone.

The second method will be through a review of U.S. Army Corps of Engineer permits and A-95 materials to insure that all construction, funding and planning activities of state and local governments are consistent with the Coastal Resources Program if they occur in or directly affect the coastal zone. Private activities funded by the agencies which are conducted in the coastal zone will normally require a coastal use permit, thereby assuring that they are consistent with the program. The governmental actions are subject to consistency review pursuant to Section 213.13 B, C, and D.

D) ACQUISITION OF PROPERTY

Subsection 306(d)(2) of the CZMA requires that the state have the authority:

“To acquire fee simple and less than fee simple interest in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.”

While Section 213.19(D) of Act 361 prohibits the direct or indirect involuntary acquisition of privately owned property and further state that involuntary acquisition is not necessary to achieve the intent and purpose of the Act, voluntary acquisition is permitted. Such authority will be useful in obtaining full ownership or servitudes over land for the positive programs provided for in Section 213.12(E), (F), and (G) of the Act. Moreover, all other state agencies have the authority to acquire property by expropriation for their own purposes. Thus, for example, a recreation project which would be consistent with, and encouraged by the LCRP, could be carried out using expropriation powers of the Department of Culture, Recreation and Tourism.

E) The Coastal Management Section of DNR has signed Memoranda of Understanding with eight governmental agencies which include the 1) Office of Conservation of the Department of Natural Resources, 2) Office of State Lands of the Department of Natural Resources, 3) Department of Health and Human Resources, 4) Department of Transportation and Development, 5) Port of New Orleans, 6) Department of Culture, Recreation and Tourism, 7) Department of Agriculture and 8) the Environmental Control Commission and Office of Environmental Affairs of the Department of Natural Resources. These agreements establish the procedures that will be followed in the joint review of permits, the method of joint public notice and the joint public hearing procedures and procedures for conflict resolution. These MOU's, which are contained in Appendix n, are summarized below.

1) In-Lieu Permit Process with the Office of Conservation for the Department of Natural Resources

The most important memorandum of understanding is between the CMS/DNR and OC/DNR. The memorandum of understanding delineates a process to be followed by CMS/DNR and OC/DNR to insure that permits issued by OC/DNR and other OC/DNR activities are consistent with the LCRP. OC/DNR shall have the responsibility for permitting activities occurring within the boundary of the coastal zone as set forth in the Act for which OC/DNR issued permits as of January 1, 1979, for the location, drilling and exploration and production of oil, gas sulphur and other minerals. It is the intent of Section 213.12(B) of Louisiana R.S. 49 that the in-lieu permit of OC/DNR be issued in place of a coastal use permit for these activities.

The following list delineates those activities subject to the permit issued by OC/DNR.

- Oil and gas activities subject to regulation pursuant to La. R.S. 30:1-36, 204, 205, 213 and 215 and as provided for in statewide orders 29-B, 29-E, 29-H and 28-J.
- Subsurface injection activities subject to regulation pursuant to La. R.S. 30:1(D), 3(C)(1), 4C)(16) and the Louisiana Environmental Affairs act and as provided for in statewide order 29-N.
- Geothermal energy activities subject to regulation pursuant to La. R. S. 30:800-809 and as provided for in statewide order 29-P.
- Uses of salt domes for storage subject to regulation pursuant to La. R.S. 30:22-23 and as provided for in statewide order 29-PM.
- Letters of clearance for intrastate natural gas pipelines subject to egulation pursuant to La. R.S. 30:554, 555, 557 and 560 and as provided for in La. Reg 4-76.

OC/DNR will issue permits only if the proposed activity is consistent with the coastal use guidelines, the Louisiana Coastal Resources Program and affected approved local programs.

CMS/DNR shall issue coastal use permits for the following aspects of the above activities in accordance with the Louisiana Coastal Resources Program, the guidelines and approved local programs:

- Dredging of canals, slips and channels
- Filling of waterbottoms, marsh or other wetlands
- Disposal of dredged spoil

- Building of board roads
- Designation of access routes
- Construction of auxiliary structures such as wharfs, piers, bulkheads, etc. not presently regulated by a statewide order.
- Maintenance dredging.

The OC/DNR will forward copies of all in-lieu permit applications to CMS/DNR within two working days. The CMS/DNR will review the in-lieu permit application and comments received from other agencies and the public to make a determination as to whether or not the activities comply with the coastal use guidelines, the Coastal Resources Program and any affected approved local program. CMS/DNR will notify OC/DNR of its determination within thirty days of the application.

The MOU between CMS/DNR and OC/DNR also agrees to establish a joint permitting process for oil and gas activities requiring in-lieu permits, coastal use permits and Corps of Engineers permits under Section 404 of the Clean Water Act of 1977.

If a conflict arises between OC/DNR and CMS/DNR, the Commissioner of Conservation and the Administrator of CMS/DNR will meet to resolve the issue. In the event a resolution of the differences cannot be reached, the Secretary of DNR will be notified, and the process set forth in Section 213.13(D) of Act 361 will be initiated. The written comments received from the secretaries will then be followed by CMS/DNR and OC/DNR.

2) Division of State Lands of the Department of Natural Resources (DSL/DNR)

The agreement between CMS/DNR and DSL/DNR concerns permits and leases for the following activities within the coastal zone.

- Reclamation of lands lost through erosion, construction of wharfs, piers, bulkheads, fills or other encroachments requiring class A, B, C, D and E permits pursuant to the State Water Bottoms Management Act, Louisiana R.S. 41:1131, 41:1701-1714, 9:1101, 5 Louisiana Reg. 8.
- Pipelines and other structures on or under state waterbottoms subject to regulation pursuant to Louisiana R.S. 30:4-H and 30:24.
- Leasing of state lands for storage and transportation of hydrocarbons pursuant to Louisiana R. S. 41:1261-1269
- Leasing of state lands for purposes other than mineral operations pursuant to Louisiana R.S. 41:1211-1223, 41:1501-1506.

- Leasing of state lands for oil, gas and other mineral operations pursuant to Louisiana R.S. 30:151-156, 158-159, 171, 208, 209, 209.1, e Louisiana Reg. 473, 4 Louisiana Reg. 210.

The CMS/DNR and DSL/DNR have agreed to send each other copies of all applications received. Coastal use application forms will contain sufficient information for DSL/DNR review and permitting applications for coastal use permits can serve as applications for DSL/DNR permits. DSL/DNR will require that their permittees obtain coastal use permits and DSL/DNR permit decisions will be consistent with the LCRP. CMS/DNR will assure that permittees comply with DSL/DNR requirements. DSL/DNR will provide timely comments on coastal use permit applications for compliance with their requirements and for impacts on state lands from a proprietary perspective. Joint public hearings may be held if necessary.

3) Department of Agriculture (DOA)

The MOU with DOA provides that the CMS/DNR will notify the DOA of all coastal use permits and will provide copies of those applications which would impact agricultural resources and the use of pesticides. The DOA will provide appropriate comments on coastal use permit applications after review of impacts to agricultural resources.

The DOA agrees that any grant activities, and other activities, including investigations of misuse of pesticides, directly affecting the coastal zone that it undertakes, conducts, approves, supports or permits, will be consistent tot the maximum extent practicable with the State Coastal Resources Program and affected approval local programs having geographical jurisdiction over the action.

4) Louisiana Department of Transportation and Development (DOTD)

DOTD will provide notice to CMS/DNR of its intent to conduct activities that directly affect the coastal zone, including planning and construction. DOTD and CMS/DNR will meet as often as necessary to coordinate activities and resolve conflicts.

5) Board of Commissions of the Port of New Orleans (Port)

The MOU between the Port and CMS/DNR provides that the two agencies will coordinate activities. The Port will coordinate with CMS/DNR at a preliminary planning/preconstruction stage as to all proposed construction activities to be carried out by the Port in any area subject to Port jurisdiction in order to assure that works affecting the coastal zone are consistent with the LCRP and all affected approval local programs.

CMS/DNR will provide the Port with copies of all coastal use permit applications received for activities in Jefferson, Orleans, St. Bernard and Plaquemines parishes and CMS/DNR will notify the Port of all permit decisions.

The CMS/DNR and the Port also agree to propose the Port of New Orleans as a special area pursuant to Section 213.10 of act 361, as amended, which will encompass lands and waters within the geographical area subject to the jurisdiction for the Port. It is agreed that CMS/DNR and the Port will work together in development of such a special area designation and the management regime for the special area. It is intended that the designation process outlined in Appendix c4 of CMS/DNR be instituted as soon as practicable and as soon as an agreement on the terms, guidelines and priorities of use can be reached between CMS/DNR and the Port.

6) Department of Culture, Recreation and Tourism (DCRT)

The agreement with DCRT relates to state parks and archaeological and historical resources. DCRT will be given special notice of all applications impacting state parks and will provide comments on such applications. CMS/DNR will include sufficient information on the application form to provide DCRT sufficient information for reviews. CMS/DNR will assure that DCRT Antiquities Code is complied with. DCRT will review application for impacts on cultural and historical resources and provide professional advice and comments.

7) Department of Health and Human Resources (DHHR)

DHHR and CMS/DNR have agreed to provide copies of all applications to each other. CMS/DNR will provide timely comments when appropriate. DMS/DNR will provide DHHR copies of permit applications and DHHR will provide timely comments. DHHR and CMS/DNR will coordinate at early stages on DHHR grant activities to assure that works constructed with those grants are consistent with the LCRP.

8) Environmental Control Commission and the Office of Environmental Affairs of the Department of Natural Resources (ECC-CEA/DNR)

The ECC-OEA/DNR and the CMS/DNR have agreed to notify each other of all permit applications and decisions which are in or effect the coastal zone. The ECC-OEA/DNR will provide CMS/DNR appropriate comments on coastal use permit applications regarding impacts on matters subject to ECC-OEA/DNR authority.

CMS/DNR will condition the approval of all coastal use permits and all consistency decisions on compliance with the rules and regulations of ECC-OEA/DNR and the applicant obtaining all permits required by ECC-OEA/DNR including the terms and conditions thereof.

ECC-OEA/DNR will condition issuance of permits for uses and activities in the coastal zone on the applicant's first obtaining any required coastal use permit or permit from an approval local program and on complying with all terms and conditions thereof.

F) JOINT STATE AND CORPS OF ENGINEERS PERMITTING PROCESS

Upon approval of the LCRP, a joint permit process with the Corps of Engineers will be established for activities within the coastal zone. The procedures established will provide for joint applications, joint public notices, public hearings and joint permits. Procedures for the establishment of a coordinated enforcement program, including a surveillance and monitoring program, will also be implemented on approval of the program. The CMS/DNR and the Corps have tentatively agreed on a draft memorandum of understanding which is contained in Appendix o. The memorandum will be completed and signed following federal approval of the LCRP.

G) COORDINATED PERMIT PROCESS

Section 213.14(B) of Act 361 directs the Secretary of DNR, the Administrator, local government and all other relevant governmental bodies to establish a coordinated coastal permitting process through interagency agreements. DNR will initiate the development of such a process during the first year of program implementation. The objective will be to expedite and streamline the issuance of coastal use permits and all other permits or approvals from other governmental bodies that have separate regulatory jurisdiction or authority over uses of the coastal zone. The coordinated coastal permitting process would consist of an application form which contains sufficient information so that all affected governmental agencies can carry out their review responsibilities, a "one window" system for applications, one public hearing and a reduction in the period for permit review.

The CMS/DNR will also seek to integrate the coordinated permitting process with a computerized permit tracking system to ensure that the evaluation of each application will be more effective in terms of time, cost and quality of review.

CHAPTER V

SPECIAL MANAGEMENT AREAS

A) INTRODUCTION

The coastal zone of Louisiana is a diverse area containing a wide range of resources from delicate barrier islands and fresh water marshes to areas ideally suited for industrial and port development. In some cases, the distance, opportunities, needs, and problems of such areas cannot be addressed by the guidelines included in Chapter II. Such special areas require special management techniques in order to develop and preserve their unique characteristics. Both the federal CZMA and Act 361 address this problem by requiring procedures for the management of special areas.

There are two types of special management areas listed in the federal CZMA: Areas of Particular Concern (APC's) and Areas for Preservation and Restoration (APR's). The CZMA requires that a state management program contain:

“An inventory and designation of areas of particular concern within the coastal zone: (Section 305(b)(3)).

“Broad guidelines on priorities of uses in particular areas including those uses of lowest priorities:(Section 305(b)(5)).

“Provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values” (Section 306(c)(9)).

Louisiana relies on the procedures contained in Act 361 and the management program for several existing special areas to meet the requirements of the CZMA for special management areas. The remaining section of this chapter will describe the special management policies and procedures contained in Act 361, the management program for two existing special areas, the Marsh Island Wildlife Refuge and Game Preserve and the area subject to the jurisdiction of the Louisiana Offshore Terminal Authority. A number of potential special areas that are presently being considered by the state for management as special areas is presented.

B) SPECIAL AREA MANAGEMENT PROVISIONS OF ACT 361.

Louisiana's Act 361 provides for the nomination, designation and management of special management areas. The Act provides in Section 213.10(3) for the adoption by the Secretary of DNR of rules for the

identification and designation of special areas and for the establishment of guidelines and priorities of uses in each of these areas. Section 213.10(A) states that:

“Special areas are areas within the coastal zone which have unique and valuable characteristics requiring special management procedures. Special areas may include important geological formations, such as beaches, barrier islands, shell deposits, salt domes, or formations containing deposits of oil, gas or other minerals; historical or archaeological sites; corridors for transportation, industrialization or urbanization, areas subject to flooding, subsidence, salt water intrusion or the like; unique, scarce, fragile, vulnerable, highly productive or essential habitat for living resources; ports or other developments or facilities dependent upon access to water; recreational areas; freshwater storage areas; and such other areas as may be determined pursuant to this Section.”

Final rules for the nomination of special management areas as required by Section 213.10 of Act 361, are found in Appendix c-4. These rules provide that any person or governmental body can nominate a special area in the coastal zone providing that they show that the area has unique and valuable characteristics that require special management procedures. These rules provide for an administrative review of special management areas by the Administrator of the Coastal Resources Program. The Administrator may, after public hearings, determine whether or not to designate the area as a special area. The guidelines and priorities of uses adopted by the Administrator for a designated special management area must be sent to the Louisiana Coastal Commission which has sixty days in which to review them. In the event the Administrator and the Commission are unable to agree on a set of guidelines and priorities of uses for a designated special area, final resolution shall be by the Governor.

The requirements and procedures set forth in Section 213.10 of Act 361 meet the requirements of the CZMA for both areas of particular concern and areas for preservation and restoration. The categories of areas identified in Section 213.10(A) include several categories appropriate as to preservation or restoration. Section 213.10(E) states:

“The Secretary is authorized to assist approved local programs and state and local agencies carrying out projects consistent with the guidelines, related to the management, development, preservation, or restoration of specific sites in the coastal zone to the development of greater use and enjoyment of the resources of the coastal zone by financial, technical, or other means, including aid in obtaining federal funds.” (emphasis added)

Act 361 as amended also contains several provisions which relate to improved identification and management of special areas in the coastal zone. Section 213.10(G) provides that DNR develop an indexing system for wetlands, coastlines, and barrier islands which are critical or subject

to rapid change. This system will improve the identification of such areas for nomination as special management areas, and also help to identify such areas for special consideration under applicable provisions of the coastal use guidelines.

Section 213.10(F) provides for development, by DNR, of a freshwater diversion plan for the State, including specific recommendations as to locations most in need of diversion of fresh and/or sediment laden waters. Such recommendations shall include projected costs, and the order of priority. The State diversion plan and specific recommendations will be the first step in a comprehensive effort by the State to compensate for wetlands lost due to natural processes, previous human activities, and unavoidable new activities.

C) EXISTING SPECIAL AREAS

Two existing special management areas have been chosen for inclusion in the LCRP at this time. The two existing special management areas are: those areas subject to the jurisdiction of the Offshore Terminal Authority and Marsh Island Wildlife Refuge.

1) The Area Subject to the Jurisdiction of the Offshore Terminal Authority

The Louisiana Offshore Oil Port (LOOP or Superport) was nominated as a “special area” because of the unique needs and problems associated with deepwater marine terminals. The superport area requires management guidelines that are specific to the superport and the area effected by it. These were developed and placed in effect in 1975, and modified in 1977

The development of a deepwater marine terminal in Louisiana stated in 1972 when a proposal was made to construct a superport: off the coast of Louisiana. Governor-elect Edwin Edwards organized a task force in 1972 to study the feasibility of developing a deepwater, offshore marine terminal which would have the capability of handling the new large” supertankers”. The task force, after examining the economic, environmental, and practical aspects of a deepwater terminal reported favorably on the project. The Louisiana legislature passed, enabling legislation for the superport in the same year. However, federal legislation for deepwater ports was delayed in the congress for two years until January, 1974. The development of the superport was further delayed until the rules and regulations developed by the U.S. Coast Guard were published in November 1975, in the Federal Register.

Louisiana Offshore Oil Port, Inc. applied for state and federal licenses to develop the superport in December, 1975, one month after the federal regulations were published in the Federal Register. The federal Department of Transportation license was issued on January 17, 1977. Loop accepted the license, thereby agreeing to its conditions on August 1, 1977. The Louisiana Offshore Terminal Authority (LOTA) on January 27, 1977 issued its license which LOOP accepted on August 1, 1977.

Section 213.10(C) of Act 361 designates the areas and facilities subject to the jurisdiction of the Offshore Terminal Authority as a "special area." The LOOP is an extremely important development for the economy of Louisiana. Crude oil production within Louisiana is currently on the decline. The record production, 2,562,000 barrels a day, of crude oil occurred in 1971. Production of crude oil was down to 1,542,000 barrels a day by 1977, a decline of forty percent from the record production. Should such trends continue, the large drop in crude oil production could severely depress Louisiana's economy, which is heavily dependent on its petrochemical industry. One study indicates that the development of the Superport could as much as double the need for refinery capacity in Louisiana by the year 2000, bringing thousands of new jobs with it (Kaiser Engineer's Report to LOTA, 1976). The Superport represents the most economical and environmentally satisfactory way to transport oil produced outside of the state to Louisiana refineries.

The site chosen for the Superport was determined through an examination of all available existing geological and environmental data which could be used for the selection of a deep draft harbor and terminal site. The method for determining the location was to examine and compare all the potential and actual stresses on the natural and human environment which could reasonably be expected to occur and then to determine the best economic/ecologic formula for a site that would result in the least total stress on the environment at a reasonable cost. The regulations in the Superport Environmental Protection Plan (Louisiana Offshore Terminal Authority, 1977) for the Superport project will constitute the management guidelines for these activities.

The Superport special management area is the corridor of the pipeline within the jurisdiction of the Louisiana Offshore Terminal authority between the LOOP Offshore Terminal and the St. James Terminal on the Mississippi River. For purposes of the federal Act, only the area of the corridor within the boundary of the coastal zone will be considered a special management area, (Figure 4). All aspects of operations between the LOOP and the St. James Terminal will be subject to the Superport Environmental Protection Plan (Louisiana Offshore Terminal Authority, 1977). The area in which the regulatory jurisdiction of the Louisiana Offshore Terminal Authority applies is the right-of-way secured by the operators of the main pipeline within the pipeline alignments specified in the application submitted to the Offshore Terminal authority. The exact boundaries of the special management area may be changed by order of the Authority upon application by the licensee. Facilities other than those operated in connection with LOOP which tie into the LOOP pipelines will only be subject to the Superport Environmental Protection Plan at the point of their connection with the main pipeline.

The Superport Environmental Protection Plan requires the Offshore Terminal Authority to conduct appropriate environmental monitoring and inspection programs and to conduct research projects related to construction and operation of the deepwater port and its related land-based facilities in order to prevent loss or damage to the State's environment from the construction and operation of the superport. An area adjacent to the

pipeline corridor has been described in the Environmental Protection Plan as the area which could be adversely impacted by an incident involving the pipeline facilities connected to LOOP along the pipeline corridor.

A larger area has been designated by the Offshore Terminal Authority as an area for continuing environmental monitoring (see Offshore Terminal authority, "Environmental Monitoring Program for the Louisiana Offshore Oil Port and Related Facilities," June, 1977).

"The licensee as required in the Environmental Protection Plan is responsible for any discharge of oil or any substance which may cause loss or damage to the environment and should any damage occur, to take appropriate action to compensate for such environmental losses."

Uses of High Priority

1. All uses and activities related to the transportation and storage of petroleum products from LOOP Offshore Terminal.
2. All other facilities, and all development related to their construction, such as roads or canals, which provide alternative, concurrent uses of the area, consistent with LOOP related use, for recreation, research and aquaculture, where those uses are suitable for and compatible with the natural environment in the particular area. In the design of all such facilities, particular consideration shall be given to their possible use as stations for monitoring weather, air and water characteristics (including pollution levels) and flora and fauna populations.

Uses of Low Priority

1. Uses prohibited in the Superport special area are any activities which are not activities relating to the transportation and storage of petroleum from the LOOP Offshore Terminal and which are damaging to the environment, or are inconsistent with uses associated with the Superport.

2) Marsh Island Wildlife Refuge and game preserve

The following information on Marsh Island and the Russell Sage Foundation was provided by Lawrence K. Benson, attorney for the Foundation in Louisiana.

Marsh Island was donated to the State of Louisiana by the Russell Sage Foundation and accepted under Act 70 of 1920, and the supplement thereto, Act 136 of 1958, as a Wildlife Refuge and Game Preserve. The island, located in the southern part of Iberia Parish, covers approximately 73,000 acres of land. Marsh Island is an important natural area for birds and wildlife. Wading birds such as herons, egrets, ibises and anhingas

use this protected area as a rookery. The wildlife refuge is also a habitat for the American alligator and for large concentrations of ducks and geese.

The deed of donation for Marsh Island specifically prohibits any type of business, manufacture, or development to be carried out on the island. It also specifically prohibits trespassing, hunting, shooting, trapping, fishing, taking or destroying wildlife thereon, except that the State is permitted through its own authorized agents to destroy such wildlife as may destroy such wildlife as may destroy game or bird life on the refuge. The State also has the right to remove from the refuge, in limited quantities, wildlife used in propagating similar wildlife on other refuges. Private persons cannot be given permission to hunt, shoot, trap or take any wildlife for their own purposes. "Public use" of Marsh Island is not permitted. It is a trespass and a criminal offense for any member of the public to go upon the refuge without the States consent. A one mile buffer zone, designed to prevent trespassing from nearby recreation areas into the wildlife refuge, exists around Marsh Island.

Because of the stringent restrictions contained in the deed of donation, the State found itself unable to conduct any oil and gas activities without special legislation. This was enacted through a number of statutes, beginning in 1944 (Act 47 of 1944, act 147 of 1954, Act 62 of 1971 and Act 154 of 1973). These statutes authorize oil and gas activities under leases and geophysical permits awarded by competitive bidding by the State Mineral Board, only if and when approved by Russell Sage Foundation. The leases and permits are granted pursuant to the cited statutes, with the approval of the Russell Sage Foundation.

As recommended by the Foundation and in accordance with the legal requirements and permissible uses pertaining to Marsh Island, the following are the priority of uses for the island.

Uses of High Priority

1. Uses performed by the State of Louisiana in managing the area as a wildlife refuge and game preserve in public ownership, as permitted by the deed of donation and pertinent statutes and agreements.
2. Oil and gas exploration and development which is performed in such a way as to produce the minimum amount of disturbance to the land and wildlife of the area.

Uses of Low Priority

None.

D) OTHER POTENTIAL SPECIAL MANAGEMENT AREAS

Prior to the passage of act 361, the Coastal Resources Program funded two technical studies identifying potential special areas. Unique Ecological Features of the Louisiana Coast and Potential Preservation and Restoration Areas in the Louisiana Wetlands. Both of these documents

have been made available to the public and parish officials and will be useful for parish planning and the special area nominating process. Federal agencies were contacted during program development for suggestions on designations of areas for special management. Based on these previous efforts and comments received on the March, 1979, State Hearing Draft on the LCRP and DEIS, the CMS/DNR has identified the following areas as potential special areas to be investigated in the first year of program implementation.

Barrier Islands

The value of the barrier islands to Louisiana cannot be underestimated. The safety of the coastal zone and the ecology of the wetlands are dependent on these islands. The extent of Louisiana's Submerged Lands Act jurisdiction is also dependent on their existence.

Barrier islands represent the first line of defense against hurricane forces and marine processes. Tidal inlets associated with the islands reefs and the Gulf shore are also the control valves of the estuaries, regulating the inflow and outflow of Gulf water. The islands are also invaluable as wildlife habitats and scenic-recreation areas. These features are, however, undergoing rapid changes as a result of coastal erosion, regional subsidence, hurricane damage and the alteration of the natural sediment cycle of the Mississippi River. Canal dredging through the barrier islands and on the bay side of a number of the islands for oil rig locations and pipelines has also seriously increased their vulnerability to storm surge damage.

The unique problems of barrier islands require special management techniques which would not apply to other coastal features. For this reason, DNR is developing information necessary for the designation of Louisiana's barrier islands as a generic special management area.

Various methods to protect and restore the barrier islands will be developed during the first year and a half of program implementation. These include natural and manmade solutions to curb erosion, special regulations concerning dredging and other activities, the use of appropriate dredge material for the restoration of barrier islands and the development of methods to recreate the natural sediment cycle to the barrier islands including the development of pumping or siphon stations, similar to the Violet Siphon in St. Bernard Parish, to reroute river water and sediment.

The development of such management plans for barrier islands is integrated with DNR studies pursuant to an amendment to Act 361 made in the 1979 legislative session. Section 213.10(G) of Title 49 of the Louisiana statutes, specifically requires DNR to develop an indexing system of critical areas and areas subject to rapid change, including barrier islands. It also mandates DNR to undertake a pilot program to create artificial barrier islands to determine their effectiveness in controlling shoreline erosion.

The barrier island management plan will be completed during the first 18 months of program implementation. The first 12 months will involve formulation of an indexing system to identify the critical areas of deterioration along the coast. This time period will also include the important process of coordinating with other local, state and federal agencies so that implementation of the plan can take place as soon as possible after completion.

The final six months will involve incorporation of newly acquired data and the formulation of management recommendations.

Areas of High Erosion

One approach to erosion control along the muddy shorelines of large coastal lakes and bays, recognized in Section 213.10(G), would be the construction of artificial barrier islands using structural methods. The islands typically would be one fourth to one half mile in length and separated from the shore by a shallow lagoon. Passes would be left between individual islands.

Although this type of erosion protection would be relatively expensive, it has a number of important advantages. Islands would not only prevent erosion, but would also reduce storm surge without destroying the important natural land-water interface along the estuary margin. Marshes and swamps could be maintained in a natural condition landward of the lagoons. The islands would not only significantly reduce the erosion problem without damaging the estuary, but could actually enhance the total environment.

Barrier island construction would create new, diversified habitats. These would include beaches, vegetated island crests, lagoon fringing marshes, tidal passes and lagoons. Increased recreational opportunities resulting from this approach are particularly attractive. The beaches and passes would be ideal for surf fishing and other water contact recreation. Island backslopes and crests provide picnic areas and camp sites, and lagoons could function as small boat shelters. The new environments could also provide wildlife and fishery habitats. These would include lagoons for oyster beds, passes for fin fish and crustaceans, fringing marshes and lagoons as estuarine nursery areas and habitat for migratory waterfowl, fringing marshes and regulated island crests as mammal and reptile habitats, and beaches, passes and island crests as habitats for shore and wading birds.

Manmade barrier islands should be constructed on the margins of large lakes and bays in places where the wetlands are of high value for recreation and/or as estuarine nursery areas and wildlife habitat. A typical application would be along the western margin of Lake Borgne, where erosion is not only destroying valuable marshes, but also a number of historic and archaeological sites. (LACCMR, 1972).

Recommendations for the location and general design of a pilot program to create one or more artificial barrier islands will be developed as part of the barrier island management program mentioned above.

Wetland Areas Suitable for Enhancement by Freshwater Diversion

Many marsh areas in Louisiana have had their natural freshwater cycle interrupted by flood protection controls along the rivers and bayous. This break in the freshwater cycle has had detrimental effects on marshlands, by reducing the introduction of sediments and freshwater to the marsh areas. Freshwater is a necessary flushing agent to marshes, bringing in new sediments and reducing the ratio of salt to freshwater. Without these inundations of freshwater and sediments, marsh areas cease to build and the ratio of salt to freshwater increases. The salt water intrusion caused by the lack of freshwater to displace it kills the previously fresh and brackish water vegetation and causes erosion.

In order to restart the building processes of the marshlands and reduce salt water intrusion, river waters have to be reintroduced into marsh areas to initiate the natural freshwater cycle. This can be accomplished with freshwater diversion pumping stations or siphons, similar to the Violet Siphon operating in St. Bernard Parish. Special management areas may be developed for the purpose of introducing freshwater back into estuarine areas. These areas will require special management techniques and environmental engineering to maximize their usefulness to broad estuarine areas.

A freshwater diversion plan for Hydrologic Basins I, II, and III will be completed during the first year of program implementation. The plans will include identification of critical areas, identifying the goals of resource management within these areas, detailed studies of hydrology and water quality in these areas, and identification of favorable locations for the diversion structures. Another important step in the plan will be the assessment of the adverse impacts of the diversions. Consideration of changes in habitat, water quality and displacement of human activities (oyster grounds, etc.) will be incorporated in the recommendations.

Throughout the study, coordination between concerned agencies, especially the DWF, National Marine Fisheries Service, U.S. Fish and Wildlife, and the U.S. Army Corps of Engineers and local governments will be maintained.

The freshwater diversion plans for the remainder of the coast (Hydrologic Basins IV, V, VI, VII) will be formulated during the second year of program implementation.

Lake Pontchartrain Basin

The Lake Pontchartrain basin includes all or part of 15 different parishes. Included in the basin area are areas of unique and highly productive habitats, areas of oil and gas production, shell deposits and areas suitable for development.

The large number of political units and interests in the basin open the possibility of it being a special area for management under Section 213.10 of Act 361. The formulation and implementation of a comprehensive basinwide management plan would require consideration of the project plans and problems of all these political units.

The first step to basinwide management will be taken during the first year of program implementation. This initial project will identify all responsible agencies and applicable regulations within each political unit and to interface these responsibilities to eliminate overlaps and gaps in their jurisdictions. This would promote a more efficient and direct application of existing agency resources to the problem of coastal zone management. In addition, this task would provide a list of issues of importance that would need to be addressed in a basinwide program. Possible issues would include development, public access, flood and hurricane protection, and protection of renewable resources.

Following the completion of work on the above areas, the LCRP will also investigate the following areas as potential special management areas.

The Port of New Orleans

The Port of New Orleans is the second largest port in the United States; over 14,000 ocean-going vessels and 100,000 barges move through New Orleans in a year. The port acts as the gateway for commerce between the central United States and the rest of the world. Over one quarter of all the waterborne commerce moved in the U.S. is moved on the Mississippi River between Baton Rouge and the Gulf of Mexico. The total value of the foreign trade (import and export) moved on the lower Mississippi River is estimated at 23 billion dollars and generates over 300 million dollars in custom duties annually. The Port of New Orleans accounts for ten percent of the gross state product. (Letter by Herbert R. Haar, Jr., Associate port Director).

A recent study prepared by the U.S. Army Corps of Engineers, the New Orleans-Baton Rouge Metropolitan Area (NOBRMA) study, indicates that the Port of New Orleans will have to accommodate increasing amounts of commerce including newer and larger vessels in the future. The NOBRMA study indicates that by the year 2020 the volume of waterborne commerce in the New Orleans region will triple. The NOBRMA study also indicates that all types of commercial ocean-going vessels are increasing in size and that new facilities will be needed to accommodate them.

The Port of New Orleans and the major navigable waterways including the Mississippi River, Mississippi River Gulf Outlet, Gulf Intracoastal Waterway, Inner Harbor-Navigation Canal, and Harvey Canal that connect it to the Gulf must be maintained and in some cases modified to accommodate this increased amount of commerce and the new larger ocean-going vessels of the future. Channels will need to be enlarged and existing navigation structures are going to have to be replaced. It is in the national interest that the Port of New Orleans and the Mississippi River navigation system be modernized in order to remain a viable international seaport.

The Port of New Orleans is exempt from the coastal use permit system established by Section 213.13 of Act 361. This section exempts deepwater port commissions and deepwater port, harbor and terminal districts from having to obtain coastal use permits, but requires them to "be consistent to the maximum extent practicable with the state and any affected approved local program."

The CMS/DNR and the staff of the Port of New Orleans believe that because of the tremendous economic and physical impacts of the Port of New Orleans and its navigable waterways as well as the unique needs of the port, that the Port and its navigable waterways should be managed as a special area.

The special area would consist of those land and water areas, subject to the jurisdiction of the Board of Commissioners of the Port of New Orleans, which are required for the operation and development of the Port of New Orleans. The Coastal Management Section of DNR and the staff of the Port of New Orleans are working together to develop a management program that will allow the Port of New Orleans to remain a viable international deepwater port and at the same time minimize any detrimental effects that any dredge and fill operations may have on the coastal zone.

The basic guidelines developed for the special management program would balance the continuing need for the modernization of the port area and its navigable water corridors with increased concern about the environmental damage that these corridors create. The management program would address the need for the modernization of the port facilities and the necessity of widening and deepening particular navigation channels. The program would also contain measures for addressing erosion and siltation problems which are affecting many of the present shipping canals. Additional efforts would be made to limit the amount of saltwater intrusion caused by the existence of navigation channels. The management program would also contain guidelines on the use of spoil disposal as a method for the creation and restoration of marshlands. In summary this program would allow for the necessary continuing development of the Port of New Orleans and also provide lessening of damages to wildlife habitats associated with port and channel expansion.

Special Areas of Rapid Delta Growth

Although much of the coastline of Louisiana is eroding at an alarming rate, some parts of the coast are still accreting land through the natural sediment deposition process. The most active area of this kind is the Atchafalaya River delta. Such areas with high natural accretion rates may be proposed as special management areas. The purpose of such designations would be to protect the natural sediment cycles that create accretion and, where possible, to develop engineering techniques that would trap the maximum amount of sediment possible and accelerate the natural accretion rate.

The approach envisioned is to attain a maximum rate of deposition in the present delta-front areas. This will bring about the emergence of the delta in that area within the shortest possible time. Such an approach requires that maximum use be made of the available natural deltaic processes. This means that the greatest possible volume of sediments should be used for the growth of a subaerial delta to its maximum extent and that delta growth should be managed to form the most beneficial pattern. Deposition in deep water must be minimized, for in deep water more sediment is needed before the delta surface emerges and marsh development can proceed, and in deep water more sediment is lost to offshore transport.

The type of development that is recommended here would provide the optimum combination of benefits at a minimum cost. The management of delta growth for a large number of distributaries also means a large number of interdistributary basins, or low areas between the natural levees of those distributaries. These basins would enhance the retention of silts and clays that are now transported offshore. Maximum retention would achieve the desired acceleration of emergence in the present delta front area and the establishment of sediment-retaining marsh vegetation (Coastal Environments, Inc., 1977).

Special Corridor Areas

Louisiana historically has grown along the natural levees of the Mississippi River and its tributaries. These corridors developed because the levee areas form ridges that are suitable to build upon and safe from flooding. These naturally high areas have stable mineral soils and lie alongside natural transportation routes. Large population centers such as New Orleans and Baton Rouge developed beside these corridors, especially the Mississippi River, because of the proximity to world shipping lanes and accessibility to the central United States. The river corridors also attracted many industries, especially bulk shippers such as the oil and grain industries, due to the economical water and train transportation systems which the levee and river interface provided.

The goals for the guidelines of the Louisiana Coastal Management Program recognize the importance of these natural and existing man-made corridors. Goals 2 and 6 of Section 213.8 of Act 361 specifically state:

“Recognize that some areas of the coastal zone are more suited for development than other areas and hence use guidelines which may differ from the same uses in different areas”(2).

“Provide for adequate corridors within the coastal zone for transportation, industrialization, or urbanization and encouraging the location of such corridors in already developed or disturbed areas when feasible or practicable” (6).

Guidelines 3.5 states:

“Existing corridors, rights-of-way, canals, and streams shall be utilized to the maximum extent practicable for linear facilities.”

Guideline 6.1 states:

“Existing corridors, right-of-way, canals, and streams shall be utilized to the maximum extent practicable for linear facilities.”

“Industrial, commercial, urban, residential, and recreational uses are necessary to provide adequate economic growth and development. To this end, such uses will be encouraged in those areas of the coastal zone that are suitable for development. These uses shall be consistent with the other guidelines and shall, to the maximum extent practicable, take place only:

- a) on lands five feet or more above sea level or within fast lands; or
- b) on lands which have foundation conditions sufficiently stable to support the use, and where flood and storm hazards are minimal or where protection from these hazards can be reasonably well achieved, and where the public safety would not be unreasonably endangered; and
 - 1) the land is already in high intensity of development use, or
 - 2) there is adequate supporting infrastructure, or
 - 3) the vicinity has a tradition of use for similar habitation or development.”

Guideline 6.2 states:

“Public and private works projects such as levees, drainage improvements, roads, airports, ports, and public utilities are necessary to protect and support needed development and shall be encouraged only when:

- a) they protect or serve those areas suitable for development pursuant to Guideline 6.1; and
- b) they are consistent with the other guidelines; and
- c) they are consistent with all relevant adopted state, local and regional plans.

The development of these corridors is an important element in developing the proper balance between conservation and development of the coastal zone. Present corridors represent areas that are already heavily developed and which are the primary areas where future development is projected to occur. The rationale for developing these corridors is to provide an adequate area for development, so that uncontrolled expansion of development into renewable resource areas can be minimized and the damages to highly biological or cultural resources reduced.

Public works projects should be focused on the corridors to strengthen and further define them. Highways, flood protection levees and structures, drainage projects, and other facilities should be combined whenever possible to minimize land acquisition and costs. Water resource management, mass transit systems, and regional waste collection treatment systems should likewise be incorporated into the corridors.

In the future the LCRP will explore a number of planning options to encourage special area planning and management for such corridor areas.

These will include special funding programs for local governments to complement the funding to be provided for local program development and as joint state-local planning efforts.

CHAPTER VI

NATIONAL INTEREST, FEDERAL CONSISTENCY, AND USES OF REGIONAL BENEFIT

a) CONSIDERATION OF THE NATIONAL INTEREST

1) Introduction

Recognizing the distinct and irreplaceable nature of the nation's coast, the United States Congress, in enacting the Coastal Zone Management Act of 1972 found that, "...there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone." Further, Section 306(c)(8) of the Coastal Zone Management Act specifically requires that state management programs provide for "adequate consideration of the national interest involved in the siting of facilities (including energy facilities...)necessary to meet requirements which are other than local in nature." This requirement is intended to assure that national concerns over facility siting are considered in the development and implementation of the coastal zone management programs.

In order to meet the requirements of subsection 306(c)(8) of the Coastal Zone Management Act and OCZM regulation 15 CFR Section 923.52, states must:

- 1) Describe the national interest in the planning for and siting facilities considered during program development.
- 2) Indicate the sources relied upon for a description of the national interest in the planning for and siting of the facilities.
- 3) Indicate how and where the consideration of the national interest is reflected in the substance of the management program.
- 4) Describe the process for continued consideration of the national interest in the planning for and siting of facilities during program implementation, including a clear detailed description of administrative procedures and decision points where such interest will be considered.

The purpose of this section is to demonstrate that adequate consideration has been and will be given to facilities in which there is a national interest. However, in an overall balanced coastal management program it is important to recognize that other national interests, such as the national

interest in resource conservation and protection, will be considered in decisions regarding the siting of identified national interest facilities. Consequently, these types of resource issues, wetland and endangered species protection, air and water quality, and historic and archaeological concerns, have also been included in this discussion. The national interest in these resources and facilities is shared by Louisiana and is illustrated in the goals and policy statements of Act 361 and the guidelines promulgated thereto. Louisiana does not exclude facilities in which there may be a national interest so long as they conform to requirements of applicable Louisiana authorities, which include consideration of the national interest in such facilities. This represents a balanced approach for assuring both proper resource protection and management and facility siting in such areas

2) Act 361 and the National Interest

Act 361 provides that the national interest be considered in the development of the coastal use guidelines and that the program provide a mechanism for continued consideration of the national interest during program implementation. Act 361 states that it is the public policy of the state “to develop and implement a coastal resources management program which is based on consideration of our resources, the environment, the needs of the people of the state, the nation, and of state and local government” (Section 213.2(5)). Furthermore, one of the goals of the state guidelines is to “establish procedures and criteria to ensure that appropriate consideration is given to uses of regional, state, or national interest in coastal resources” (Section 213.8(C)(12)). The national interests considered during the development of the LCRP, the sources relied upon, and a discussion of how the national interests are reflected in the LCRP are described in the section “Description of National Interest” contained below.

Pursuant to Section 213.8 (C)(12) of the Act, the coastal use guidelines contain specific language requiring the continued consideration of the national interest during program implementation by requiring that such interests be considered in the application of the coastal use guidelines. Guideline 1.6(m) requires that “the extent to which regional, state, and national interests are served including the national interest in resources and siting of facilities in the coastal zone as identified in the coastal resources program” be utilized in determining whether the proposed use is in compliance with the guidelines. In addition guideline 1.8 provides that the extent to which “the use would serve important regional, state, or national interests, including the national interest in resources and siting of facilities in the coastal zone identified in the coastal resources program: is one of the factors to be considered in determining whether a proposed use that it not in compliance with certain standards contained in the guidelines may nonetheless be permitted due to overriding concerns set forth in the guidelines. This consideration must be made in the implementation of the coastal use permit program by DNR and local governments with approved programs, the implementation of the in-lieu permits by OC/DNR and DWF, as well as the development and the approval of local coastal programs by CMS/DNR. The LCRP, therefore, provides for a comprehensive mechanism for continued consideration of the national interest during program imple-

mentation. In considering the national interest in the above noted administrative actions, the LCRP will consider the national interest described in the subsection below and any additional new material from the following sources;

- Federal laws and regulations;
- Policy statements or Executive Orders from the President of the United States;
- Special reports, studies and comments from federal and state agencies;
- Statements received at public hearings concerning coastal use permits, in-lieu permits, and the approval of local programs pursuant to Act 361; and
- Other statements of national interest issued by federal agencies.

3) Description of National Interests

This section describes the national interests in the planning for and siting of facilities that have been considered in the development of the LCRP, the sources relied upon for such descriptions and the identification of where such interests are reflected in the LCRP, either in the policies of Act 361, the coastal use guidelines developed pursuant to the act or in other state laws incorporated into the LCRP.

In addition to reviewing the documents noted below, the Louisiana program has sought the participation and consideration of the views of affected federal agencies as one means of determining the national interest. On June 13, 1975, the LCRP (then located in the State Planning Office) requested the assistance of the Southwest Federal Regional Council (SWFRC) in the development of certain parts of the coastal zone management program. A questionnaire requesting federal agency assistance in delineating the national interest in Louisiana was submitted to these agencies for their response. On August 20, 1975, LCRP staff representatives met with the Southwest Federal Regional Council and presented an initial outline of state informational needs with regard to the national interest on coastal facilities. Finally, the LCRP has considered all comments received from federal agencies pursuant to their review of the LCRP Hearing Draft issued in March, 1979 and DEIS issued in September, 1979.

Tables 7 and 8 provide a listing of the facilities and resources which have a national interest. These interests are discussed in detail in subsequent sections of this chapter.

TABLE 7
NATIONAL INTEREST FACILITIES

National defense and aerospace.....	Military bases and installations; defense manufacturing facilities; aerospace facilities.
Energy production and transmission.....	Oil and gas rigs, storage, distribution and transmission facilities; power plants; deep-water ports; Liquified Natural Geological geothermal facilities; coal mining facilities.
Recreation.....	National seashores, parks, forests; arge and outstanding beaches and recreational waterfronts.
Transportation.....	Interstate highways, railroads; airports; ports; aids to navigation including Coast Guard Stations.

TABLE 8
RESOURCES IN WHICH THERE IS A NATIONAL INTEREST

Air and Water Quality
Wetlands and Endangered Species
Flood Plains and Barrier Islands
Historic and Cultural Resources
Fisheries and Other Living Marine Resources

Facilities

(1) National Defense

To determine the national interest in the planning for and siting of facilities utilized for national defense the following agencies and entities were consulted among others:

- Department of the Navy
- Department of Defense

Major objectives of the national interest in facilities utilized for national defense and aerospace are:

- To ensure the sovereignty of the nation and protect its citizens against physical harm or expropriation.
- To establish and maintain those facilities necessary to carry out the first objective.

The clearcut and overriding importance of national defense is recognized by the Louisiana Coastal Resources Program. Although the naval presence has declined in recent years, military commands are located in the Louisiana coastal area, and the establishment of new defense facilities for national security reasons remains a possibility. The Louisiana program excludes from its jurisdiction federally owned or leased lands and facilities. However, any activities undertaken by federal agencies on such properties are subject to the federal consistency requirements of Sec. 307 of the CZMA when they would directly affect Louisiana's coastal zone.

The Louisiana program will not question national security as a justification for new or expanded defense facilities. Louisiana will make every effort, however, to ensure maximum conformance with the Louisiana program through investigation of alternative sites and environmental mitigation measures. Federal consistency procedures will be applied to such activities as appropriate.

(2) Energy Production and Transmission

In determining the national interest in the planning for and siting of energy production and transmission facilities, the following legislation, documents, and federal agencies were consulted:

- Department of Energy
- National Energy Plan
- Bureau of Land Management
- Maritime Administration

- U.S. Geological Survey
- Department of Transportation
- U.S. Army Corps of Engineers
- Nuclear Regulatory Commission

The most useful articulation of the national interest in energy facility planning and siting is found in the National Energy Plan. There are three overriding objectives:

- as an immediate objective that will become even more important in the future, to reduce dependence on foreign oil and vulnerability to supply interruptions;
- in the medium term, to keep U.S. imports sufficiently low to weather the period when world oil production approaches its capacity limitation; and
- in the long term, to have renewable and essentially inexhaustible sources of energy for sustained economic growth.

The salient features of the National Energy Plan are:

- conservation and fuel efficiency;
- national pricing and production policies;
- reasonable certainty and stability in government policies;
- substitution of abundant energy resources for those in short supply; and
- development of nonconventional technologies for the future

Elements of the Louisiana Coastal Resources program that are particularly applicable to the national interests in planning for and the siting of energy facilities may be summarized as follows:

- Act 361 includes as uses of state concern (Section 2133.5(1)(f)(g)(h)), the following: (1)all mineral activities, including exploration for, and production of, oil, gas, and other minerals, all dredge and fill uses associated therewith, and all other associated uses, (2)all pipelines for the gathering, transportation or transmission of oil, gas and other minerals, (3)energy facility siting and development...
- The Act provides for membership on the Louisiana Coastal Commission of an oil and gas industry representative and a public utilities representative.

- Section 213.12(B), of the act, provides for integrated coastal permitting of oil and gas activities by stating that:

Permits issued pursuant to existing statutory authority of the Office of Conservation in the Department of Natural Resources for the location, drilling, exploration and production of oil, gas, sulphur or other minerals shall be issued in lieu of coastal use permits, provided that the office of conservation shall coordinate such permitting actions pursuant to Sections 213.13(B) and (D) and shall ensure that all activities so permitted are consistent with the guidelines, the state program and any affected local program; and

- In the goals for the development of guidelines, Act 361, Section 213.8(C)(12), provides for consideration in the permit decision-making process of a proposed project's relationship to, and impacts on, state and national interests, including the siting of energy facilities by the establishment in the coastal use guidelines of procedures and criteria to ensure that appropriate consideration is given to uses of regional, state, or national importance, energy facility siting and the national interests in coastal resources.

Since siting of oil and gas facilities is included in Table 8 as a national interest, this implies national interest in the resource. The purpose of locating facilities is to locate the resources. It would be redundant to include oil, gas, sulphur, and other minerals in Table 8. Therefore they have not been included.

(3) Recreation

In determining the national interest in the planning for and siting of facilities to be used for recreation, the following documents, legislation and federal agencies were consulted:

- The Nationwide Outdoor Recreation Plan
- Historic Preservation Act
- Land and Water Conservation Fund Act
- Louisiana State Comprehensive Outdoor Recreation Plan
- Heritage Conservation and Recreation Service
- National Parks Service
- Fish and Wildlife Service

Major Objectives of the national interest in recreational facilities have been determined to be:

- To consider recreation as an equal among competing uses of the coastal region.
- To provide high quality recreational opportunities to all people of the United States while protecting the coastal environment.
- To increase public recreation in high density areas.
- To improve coordination and management of recreation areas.
- To protect existing recreation areas from adverse contiguous uses.
- To accelerate the identification and no-cost transfer of surplus and under-utilized federal property for recreational uses.

The Louisiana Coastal Resources Program has incorporated the national interests in recreational facilities by Act 361 recognizing the value of special features of the coastal zone such as recreation areas (Section 213.8(C)(4))including:

- One goal for the development of guidelines under Act 361 is to, “Provide ways to enhance opportunities for use and enjoyment of recreational values of the coastal zone”(213.8(C)(10)).
- Act 361 provides for membership on the Louisiana Coastal Commission of a hunting and outdoor recreation representative.
- Guideline 1.7(q) provides that activities be planned, sited, designed, constructed, operated, and maintained to avoid to the maximum extent practicable, significant adverse alteration or destruction of public parks, shoreline access points, public works, designated recreation areas, scenic rivers, or other areas of public use and concern.
- Guideline 5.3 provides that shoreline modification structures should not interfere with navigation and should foster fishing and other recreational opportunities and public access.

(4) Transportation

In determining the national interest in the planning for and siting of transportation facilities, the following documents and federal agencies were consulted:

- Department of Transportation Act
- Railway Safety Act of 1970
- U.S. Coast Guard
- Department of Transportation
- Maritime Administration
- U.S. Army Corps of Engineers

The major objectives of the national interest in transportation have been determined to :

- To develop a balanced national transportation system including well articulated and integrated surface, air, water, and subsurface modes.
- To provide fast, safe, efficient and convenient access via one or more modes of transportation for the movement of people, goods and services to, from, and through the coastal region.

The Louisiana Coastal Resources Program has considered these objectives in the following manner:

- Uses of state concern under Act 361 include:
 - (A) State publicly funded projects;
 - (B) Projects occurring in more than one parish;
 - (C) All pipelines for gathering, transportation or transmission of oil, gas and other minerals;
 - (D) Uses of local concern which may significantly affect interests of regional, state or national interests (Section 213.5(C)(e)(g)(i)).
- Act 361 provides that deep water port commissions and deep water port, harbor, and terminal districts are not required to obtain a coastal use permit provided that their activities shall be consistent with the state program and affected approved local programs (Section 213.13.(A)), thereby simplifying coastal permitting procedures by such entities.

- Act 361 designates the Superport as a special area (Section 213.10(C)) and exempts the Superport from coastal use permit requirements (Section 213.15(A)(b)).
- Act 361 recognizes the value of special features such as ports and other areas where developments and facilities are dependent upon the utilization of or access to coastal waters (Section 123.8(c)(4)).
- Section 213.8 (C)(6) of Act 361 states that a goal for the development of coastal use guidelines is to:

Provide for adequate corridors within the coastal zone for transportation, industrialization, or urbanization and encourage the location of such corridors in already developed or disturbed areas when feasible or practicable.

- Act 361 provides for membership on the Louisiana Coastal Commission of a representative of ports, shipping, and transportation.
- The coastal use guidelines provide that:

Spoil shall not be disposed of in such a manner as to create a hindrance to navigation or fishing, or hinder timber growth (4.5).

Shoreline modification structures shall be lighted or marked in accordance with U.S. Coast Guard regulations, not interfere with navigation, and should foster fishing and other recreational opportunities and public access (5.3).

- In general, Act 361 and the coastal use guidelines do not exclude various uses including transportation uses as long as these uses meet appropriate standards.
- The Port of New Orleans will be proposed for designation as a special area.

Resources

(1) Air and Water Quality

In determining the national interest in both air and water quality, the following acts and federal agencies have been consulted:

- Clean Water Act of 1977
- Federal Clean Air Act
- U.S. Environmental Protection Agency

The major objectives of the national interest in air and water are to provide the citizens of the United States with air and water quality that will enhance their quality of life.

The Louisiana Coastal Resources Program has considered the national interest in air and water in the following manner:

- Act 361 provides for membership of a representative of nature preservation and environmental protection on the Louisiana Coastal Commission.

- The goals for the development of the coastal use guidelines include:

Require careful consideration of the impacts of uses on water flow, circulation, quantity, and quality and require that the discharge or release of any pollutant or toxic material into the water or air of the coastal zone be within all applicable limits established by law, or by federal, state, or local regulatory authority (Section 213.8(C)(3)).

- Guideline 1.2, applicable to all uses provides:

Conformance with applicable water and air quality laws, standards and regulations and with those other laws, standards and regulations which have been incorporated into the coastal resources program shall be deemed in conformance with the program except to the extent that these guidelines would impose additional requirements.

- The guidelines state:

Shoreline modification structures shall be built using best practical materials and techniques to avoid the introduction of pollutants and toxic substances into coastal waters (guideline 5.4)

(2) Wetlands and Endangered Species

Louisiana's coastal wetlands support many habitats critical to fish and wildlife which are often threatened by development activities. Wetlands also play vital roles in purifying water quality and retaining flood waters.

In determining the national interest in wetlands and endangered species, the Fish and Wildlife Service, the Corps of Engineers, and the National Marine Fisheries Service were consulted. Other sources consulted by the LCRP include:

- The Endangered Species Act of 1972
- Fish and Wildlife Coordination Act
- Marine Protection, Research and Sanctuaries Act of 1972
- Executive Order No. 11990 (protection of wetlands)
- Migratory Bird Act
- Executive Order No. 11988 (flood plain management)
- Fishery Conservation and Management Act of 1976
- The Marine Mammal Protection Act of 1972, as amended

The national interest in wetlands and endangered species habitats has been interpreted to include:

- To avoid to the extent possible the long and short-term adverse impacts associated with the disruption or modification of wetlands and to avoid direct or indirect support of new construction in wetlands whenever there is a reasonable and prudent alternative.
- To provide means whereby ecosystems upon which endangered and threatened species depend may be preserved.
- To provide a program for the conservation for the conservation of endangered and threatened species.

The Louisiana Coastal Resources Program considers these objectives in the following manner:

- One of the goals for the development of the coastal use guidelines under Act 361 Section 213.S(C)(5) is to:

Minimize, whenever feasible and practical, detrimental impacts on natural areas and wildlife habitat and fisheries by such means as encouraging minimum change of natural systems and by multiple use of existing canals, directional drilling, and other practical techniques.

- Guideline (1.7)(p) states that all uses and activities shall be planned, sited, designed, constructed, operated and maintained to avoid to the maximum extent practicable significant adverse alteration or destruction of unique or valuable habitats, critical habitat for endangered species, important wildlife or fishery breeding or nursery areas, designated wildlife management or sanctuary areas, or forest lands.

- Several guidelines provide for specific protection of critical habitat areas and wetlands, including guidelines 1.7(e), 1.7(0), 2.1, 3.1, 4.2, 4.4, 6.4, 8.1, and 10.1.

(3) Flood Plains, Barrier Islands

In determining the national interest in flood plains, erosion hazard areas, and barrier islands, the following documents, legislation and federal agencies were consulted:

- Flood Disaster Protection Act
- National Flood Insurance Act of 1968
- Water Resources Development Planning Act of 1974
- The President's executive Order on Floodplain Management (May 24, 1977)
- Department of Housing and Urban Development
- U.S. Army Corps of Engineers

The major objectives of the national interest in these areas is to avoid the long and short term adverse impacts associated with the occupancy and modification of floodplains, erosion hazard areas, and barrier islands.

The Louisiana Coastal Resources Program considers these major objectives in the following manner:

- The goals specified by Act 361 for the development of the coastal use guidelines recognize the value of special features such as barrier islands.
- The guidelines provide that:
 - (a) Proximity to and extent of impacts on important natural features such as beaches and barrier islands be considered in the permit decision-making process (1.6(e)).
 - (b) All uses and activities shall be planned, sited, designed, constructed, operated and maintained to avoid to the maximum extent practicable:
 - (1) destruction or adverse alterations of streams, wetlands, tidal passes, inshore waters and water bottoms, beaches, dunes, barrier islands, and other natural biologically valuable areas or protective coastal features (1.7(e)) and

- (2) significant increases in the potential for flood, hurricane or other storm damage, or increases in the likelihood that damage will occur from such hazards (1.7(t)).

(c) Linear facilities shall not traverse or adversely affect any barrier island.

(4) Historic Sites and Cultural Resources

In determining the national interest in historic sites, the following document and federal agencies were consulted:

- The Antiquities Act of 1906
- Historic Sites Act of 1935
- Archaeological and Historical preservation Act of 1974
- National Historic Preservation Act of 1966 (Executive Order 11593), amended under the Land and Water Conservation Fund Act of 1976.
- National Environmental Policy Act of 1969
- National Park Service

The major objectives of the national interest in historic sites and districts have been identified to be:

- To afford protection to significant historic (including archaeological) sites from adverse impacts.
- To consider cultural resources in assessing the environmental impacts of proposed activities.

The Louisiana Coastal Resources Program considers the national interest in historic sites in the following manner:

- Guideline 1.6(p) states that proximity to and extent of impacts on historic recreational or cultural resources it will be considered in the permit decision-making.
- Guideline 1.7(n) states that activities shall be planned, sited, designed, constructed, operated and maintained to avoid to the maximum extent practicable significant adverse, alteration or destruction of archaeological, historical, or other cultural resources.

(5) Fisheries and Other Living Marine Resources

The Nation's basic fisheries goals are set forth in the Fishery Conservation and Management Act of 1976. The conservation and management of

Louisiana fisheries resources and development of the fishing industry will provide a major source of employment, a significant contribution to the economy and support to Louisiana coastal communities. In determining the national interest in living marine resources the following documents, specific legislation, and agencies were consulted:

- "A Compilation of Federal Laws Relating to Conservation and Development of Our Nation's Fish and Wildlife Resources, Environmental Quality, and Oceanography." The Library of Congress, Congressional Research Service. January, 1975
- "A Marine Fisheries Program for the Nation." U.S. Department of Commerce. July 1976.
- Fishery Conservation and Management Act
- Army Corps of Engineers
- National Marine Fisheries Service
- Fishery Conservation and Management Act of 1976
- National Environmental Policy Act
- Coastal Zone Management Act
- Marine Mammal Protection Act
- Endangered Species Act

The major objectives of the national interest in living marine resources have been determined to be:

- To conserve, enhance and manage in a rational manner commercial fishing, which constitutes a major source of employment and contributes significantly to the food supply, economy and health of the nation.
- To strengthen the contribution of marine resources to recreation and other social needs.
- To develop and protect all species of wildlife, resources thereof and their habitat and, to control losses by damage to habitat areas through coordination with other resource management programs.

The salient features of the national interest in living marine resources are, therefore:

- Emphasis on commercial fisheries;
- Strengthening the relationship of marine resources to recreation;
- Protection of marine resources; and
- Protection of wildlife habitat.

Elements for the national interest in living marine resources with particular application to the Louisiana Coastal Resources Program are as follows:

- Act 361 provides for memberships on the Louisiana Coastal Commission representing commercial fishing and trapping, sport fishing, and nature preservation and environmental protection.
- The goals for the development of guidelines in Act 361 include:
 - (a) the recognition of fishery nursery grounds as a special feature of the coastal zone (Section 213.8(C)(4)); and,
 - (b) the minimization, where feasible and practical, of detrimental impacts on natural areas and wildlife habitat and fisheries by such means as encouraging minimum change of natural systems and by multiple use of existing canals, directional drilling, and other practical techniques (section 213.13(A)(4)).
- The guidelines provide for:
 - (a) Consideration in the permit decision-making process of the impacts on navigation, fishing, public access, and recreational opportunities (1.6(q)) and,
 - (b) The planning, siting, designing, constructing, operating and maintaining of all uses and activities in such manner to avoid to the maximum extent practicable significant: (a) adverse alteration or destruction of unique or valuable habitats, critical habitat for endangered species, important wildlife or fishing, breeding or nursery areas, designated wildlife management or sanctuary areas or forest lands (1.7 (p)); (b) adverse disruptions of coastal wildlife and fishery migratory patterns (1.7(r)).

- (c) Spoil shall not be disposed of on marsh, known oyster or clam reefs or in areas of submersed vegetation to the maximum extent practicable (4.4).
- (d) Spoil shall not be disposed of in such a manner as to create a hinderance to navigation or fishing, or hinder timber growth (4.5).

B) FEDERAL CONSISTENCY

1) Introduction

The CZMA provides that certain actions of federal agencies which affect the coastal zone must be consistent with approved state coastal zone management programs.

Section 307 (c) states,

- (1) Each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs...
- (2) Any federal agency which shall undertake any development project in the coastal zone of a state shall ensure that the project is, to the maximum extent practicable, consistent with approved state management programs.

In addition, section 307(c)(3)(A) requires that,

Any applicant for a required federal license or permit...shall provide...certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program...

Section 307 (c)(3)(B) requires that:

Any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) And regulations under such Act shall attach to such plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program...

Section 307(d) requires that:

State and local governments submitting applications for federal assistance under other federal programs affecting the coastal zone shall indicate the views of the appropriate state or local

agency as to the relationship of such activities to the approved management program for the coastal zone...

Thus, the CZMA imposes a strong requirement on federal agencies to conduct their business in a manner that conforms with state and local coastal goals and objectives described in federally approved coastal management programs.

2) Procedures for Consistency Review

Federal agencies with administrative responsibilities in or affecting the Louisiana coastal zone are required to act in conformance with Section 307 of the CZMA and NOAA implementing regulations (15 CFR Part 930). Table 9 summarizes the federal actions covered, the notification procedures and related matters.

Consistency reviews will be undertaken by the Secretary of DNR, except that federal actions associated with uses carried out under the Secretary's authority shall be reviewed by the Governor. In the case of applicants for federal licenses and permits, applicants should submit consistency certifications to the Secretary, along with supporting information, DNR will work with relevant federal agencies toward the development of memoranda of understanding (MOU's) and more specific procedures governing the processing of consistency for federal activities and development projects, and for the joint processing of applications for permits for activities affecting the state's coastal zone during the first year of program implementation. Such MOU's will provide, among other things, for joint application forms, corresponding information requirements, coordinated time periods for permit application review, and joint public hearings where appropriate. The federal and state permitting processes can be further simplified and expedited, as well as rendered more predictable, by the development of joint substantive standards to be applied to such applications.

3) Standards for Determining Consistency

In determining whether federal activities, development projects, licenses and permits, OCS plans and financial assistance are consistent with the Louisiana Coastal Resource Program, the following shall be applied:

- (a) The goals and objectives found in Act 361, the coastal use guidelines, and rules and regulations promulgated thereunder.
- (b) The policies included in other state laws identified in Appendix 1 as apart of the LCRP and the implementing regulations promulgated pursuant to such laws.

TABLE 9

FEDERAL CONSISTENCY PROCEDURES

<u>CZMA Section</u>			
	307(c)(1)&(2)	307(c)(3)(A)	307(c)(3)(B) 307(d)
Federal action	Direct federal activities including development projects	Federally licensed and permitted activities	Federally licensed and permitted activities described in detail in OCS plans Federal assistance to state and local government
Coastal zone impact	Directly affecting the coastal zone	Affecting the coastal zone	Affecting the coastal zone
Responsibility to notify state agency	Federal agency proposing the action	Applicant for Federal license or permit	A-95 clearing-house receiving state or local government application for federal assistance
Notification procedure	Consistency determination	Consistency certification	OMB Circular A-95 notification procedure
Consistency requirement	Consistent to the maximum extent	Consistent with the CZM Program	Consistent with the CZM Program

TABLE 9 (Continued)

FEDERAL CONSISTENCY PROCEDURES

CZMA Section				
	307(c)(1) & (2)	307(c)(3)(A)	307(c)(3)(B)	307(d)
State agency action	Agree or disagree submission of recommended alternatives in the event of disagreement	Concur or object explain basis of objection	Concur or object explain basis of objection	Concur or object explain basis of objection
Federal agency responsibility following a disagreement	Federal agency not required to disapprove action following state agency disagreement (unless judicially impelled to do so)	Federal agency may not approve license or permit following state agency objection	Federal agency may not approve federal licenses or permits described in detail in the OCS Plan following state agency objection	Federal agency may not grant assistance following state agency objection
Administrative conflict resolution	Voluntary mediation by the Secretary of the U.S. Department of Commerce	Appeal to the Secretary of the U.S. Department of Commerce by applicant or Independent review by Secretary of Commerce	Appeal to the Secretary of the U.S. Department of Commerce by person or Independent Secretarial review	Appeal to or voluntary mediation by the Secretary of the U.S. Department of Commerce

Source of procedures: 15 CFR 930, 44 Federal Register 37142, (June 25, 2979)

4) Federal Activities Including Development, Projects, Sections 307 (c)(1) and (2)

Section 307 (c)(1). and (2) of the CZMA requires that federal activities, including development projects, directly affecting the coastal zone “shall be conducted in a manner which is, to the maximum extent practicable, consistent with approved state management programs.”

The following activities and projects generally can be considered as directly affecting the coastal zone. These activities include:

- Federal agency coastal activities subject to state licenses and permits;
- Development projects in the coastal zone;
- Outer continental shelf activities adjacent to the coastal zone which are not subject to consistency review under other provisions of Section 307 of the CZMA;
- Activities affecting or altering surface runoff quality or quantity in the coastal watershed, and the coastal zone;
- Dredge, fill, development, construction, or waste discharge in or into coastal waters;
- Any other activity which would, if carried on by a private party, require a state or local coastal use permit or in lieu permit under Act 361.
- Acquisition/disposal of federal property in the coastal zone.

In the case of federal lands excluded from the coastal zone, federal activities on these lands that have an impact on the coastal zone beyond the boundaries of the federal properties are deemed likely to directly affect the coastal zone. Federal agencies themselves must determine whether or not other activities or projects will directly affect the coastal zone and whether or not they are consistent, to the maximum extent practicable, with the LCRP. The federal agency must notify the State of Louisiana of such proposed actions and provide consistency determinations. Certain categories of federal actions can generally be considered not to directly affect the coastal zone. These include:

- Radio transmission and maintenance of navigation aids placed or authorized by the U.S. Coast Guard; and
- Any action for which the agency’s environmental documentation procedures, established pursuant to the National Environmental Policy Act of 1969 and the regulations of the Council of Environmental Quality, do not require issuance of an Environmental Impact Statement of environmental assessment.

To save time and funds, and to avoid conflicts involving substantial commitments or resources, consistency should be assessed at the earliest possible time. Preferably, this should occur as an integral part of planning and budgetary decisions.

The Secretary of DNR is responsible for reviewing federal agency determinations that their activities and projects are consistent with the LCRP. Each federal agency must provide DNR with direct notification of such activities and projects which directly effect the Louisiana coastal zone.

5) Federal License And Permits (Section 307(c)(A))

Section 307(c)(3)(A) of the CZMA provides that any applicant for a federal license or permit to conduct an activity affecting land or water uses in the coastal zone must certify that the proposed activity complies with, and will be conducted in a manner consistent with, the management program, and submit all necessary information and data to the state. This certification will read as follows: "The proposed activity complies with Louisiana's approved coastal management program and will be conducted in a manner consistent with the program." The certification must be accompanied by sufficient information to support the applicant's consistency certification. Such information shall consist of, at a minimum, copies of all applications for relevant federal, state and local permits or clearances, a detailed description of the proposed activities and its associated facilities, and appropriate maps, diagrams and technical data necessary for this description. Such information shall not be needed if a coastal use permit is also required.

The Secretary of DNR will then review the information and certification provided by the applicant, and the federal application, and at the earliest possible time notify the applicant and the federal agency of its concurrence or objection. The CZMA requires that, "No license or permit shall be granted by the federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act (within six months) the concurrence is conclusively presumed...." The Secretary of DNR will normally make his consistency decision within three months or notify the applicant or federal agency of the basis for further delay. If not given within four months and the Secretary of DNR has not notified the federal agency of a delay in processing the application, federal agencies and applicants may consider the proposal activity as being consistent with the Coastal Resource Program. Table 10 lists the kinds of federal licenses and permits which may affect the coastal zone, and which the state wishes to review for consistency with the LCRP. If unlisted activities are frequently determined to affect the coastal zone, the list may be expanded through appropriate OCZM procedures for changes to the LCRP.

The federal license or permit may not be issued by the federal agency if the Secretary of DNR objects to the applicant's certification statement unless the objection is overturned on an appeal to the Secretary of Commerce because the activity is consistent with the objectives of the CZMA.

or is necessary in the interest of national security (Section 307(c)(3)(A)). The issuance of a coastal use permit by DNR will indicate compliance with the program.

If it is found that the issuance of federal permits and licenses not included in Table 10 would affect the coastal zone, the state will inform the applicable federal agency and applicant within 30 days from notice of the license or permit application of its intent to review the activity for consistency. Otherwise, the state will have waived its right to review the unlisted activity. The state will also notify OCZM, which will then approve or disapprove the state's decision to review the activity.

TABLE 10

FEDERAL LICENSES AND PERMITS SUBJECT TO
CERTIFICATION OF CONSISTENCY

Types of Federal Licenses or Permits

Department of Agriculture:

Permits for waterplants, dams, etc. under 16 USC 497.

Permits for construction of hotels, etc. on National Forest Service lands under 16 USC 497.

Department of Commerce:

Permits for activities within Marine Sanctuaries under 33 USC 1401-1444.

Department of Defense - U.S. Army Corps of Engineers:

Permits and licenses required under Sections 9, 10, 11, and 14 of the River and Harbor Act of 1899...

Permits and licenses required under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1912 9Ocean Dumping)...

Permits and licenses required under Section 404 of the Federal Water Pollution Control Act of 1972, as amended (33 USC 1344).

Permits and/or licenses for construction of artificial islands and fixes structures on the Outer Continental Shelf pursuant to Section 4(f) of the OCS Lands Act (43 USC 1334) not otherwise covered in an OCS plan.

TABLE 10 (Continued)
FEDERAL LICENSES AND PERMITS SUBJECT TO
CERTIFICATION OF CONSISTENCY

Types of Federal Licenses or Permits

Nuclear Regulatory Commission:

Permits and licenses required for siting, construction and operation of nuclear power plants, fuel processing and disposal of nuclear wastes...

Environmental Protection Agency:

Permits and licenses required under Section 402 and 404 of the Clean Water Act of 1977, as amended.

Permits and applications under the Clean Air Act of 1974 as amended...

Permits under the Marine Protection, Research and Sanctuaries Act of 1972.

Permits pursuant to the Resource Recovery and Conservation Act of 1976.

Department of the Interior:

Permits for activities within national parks (National Park Service)

Permits for activities within other lands managed by the Department of the Interior...

Endangered Species permits pursuant to the Endangered Species Act (16 USC 153(a) (Fish and Wildlife Service).

Department of Interior Bureau of Land Management

Permits required for offshore drilling, pipeline corridors, and associated activities pursuant to the OCS Lands Act (43 USC 1334) and 43 USC 931(c) and 20 USC 185.

Department of the Interior - U.S. Geological Survey:

Plans for exploration, development and production of OCS gas and oil (Review pursuant to Section 307(c)(B) of the CZMA).

Permits to drill, rights of use and easements for construction and maintenance of pipeline gatherline and flow lines and associated structures under 43 USC 1334.

TABLE 10 (Continued)
FEDERAL LICENSES AND PERMITS SUBJECT
CERTIFICATION OF CONSISTENCY
Types of Federal Licenses or Permits

Department of Transportation - U.S. Coast Guard:

Permits for construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 USC 1455.

Permits for deepwater ports under the Deepwater Port Act of 1974 (33 USC 1501).

Department of Transportation -Federal Aviation Administration:

Approval of airport location or alteration.

Department of Transportation - Materials Transportation Bureau, Office Of Pipeline Safety Operations:

Permits for the transportation of liquids (other than petroleum products) by pipeline (Section 195.6 of the regulations for transportation of liquids by pipeline).

Department of Energy - Economic Regulatory Administration:

Authorizations for the import or export natural gas.

Exemptions for conversion orders issued under the Powerplant and Industrial Fuel Use Act.

Construction orders for power plants and major fuel burning installations under 15 U.S.C. 791 et seq. And 15 U.S.C. 761 et seq.

Department of Energy - Federal Energy Regulatory Commission:

Licenses required for non-Federal hydroelectric projects and associated transmission lines under Section 3(11), 4(e), and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(e), and 808).

Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (16 U.S.C. 824 (b)).

Certificates of public convenience and necessity for the construction and operation of natural gas pipeline facilities, including both interstate pipelines and terminal facilities under Section 7 (c) of the Natural Gas Act (15 U.S.C. 717f(c)).

Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717(b)).

The federal license or permit may not be issued by the federal agency if the Secretary of DNR objects to the applicant's certification statement, unless the objection is overturned on an appeal to the Secretary of Commerce because the activity is consistent with the objections of the CZMA, or is necessary in the interest of national security (Section 307(c)(3)(A)). The issuance of a coastal use permit by CMS/DNR will indicate compliance with the program. If an applicant to a federal agency has a valid coastal use permit issued by CMS/DNR, it will also constitute consistency with the state program.

6) OCS Exploration Development and Production Plans

Persons submitting exploration, development, or production plans to the Secretary of the Interior pursuant to the requirements of the Outer Continental Shelf Lands Act, and regulations thereunder, shall, with respect to any exploration, development or production described in such plan will be carried out in a manner consistent with the CZM program. The certification must be accompanied by necessary data and information to support the person's finding. Federal licenses and permits for OCS activities described in detail in such plans shall not be issued by the federal agency if the Secretary of DNR objects to the person's certification, unless the objection is overturned on an appeal to the Secretary of Commerce (Section 307 (c)(3)(B)).

7) Federal Assistance (Section 307(d))

Section 307(d) of the CZMA establishes consistency requirements for federal financial assistance to state and local governments. Federal assistance includes any grant, loan, contract, subsidy, guarantee, insurance, or other form of financial aid provided under a federal program. If any such aid is for a project which affects the coastal zone it must be consistent with the LCRP. Applications submitted for federal assistance for an activity affecting the coastal zone shall follow the A-95 notification and review process to permit the Secretary of DNR to review the consistency of the proposed federal assistance activity. If the Secretary of DNR objects to the proposed federal assistance, the application cannot be approved unless the objection is overturned on an appeal to the Secretary of Commerce (Section 307 (d)).

8) Processing Of Comments On Consistency

Louisiana will rely upon the public notice provided by the federal license or permit. If such notice does not satisfy the minimum requirements of OCZM regulations adopted pursuant to Section 307(c)(3), the Secretary will require that the additional notice required by given by the applicant. The Secretary will consult with affected federal agencies to determine whether the notices issued by these agencies comply with OCZM notice regulations. The Secretary will review all comments received within the time limit specified

for a consistency finding by OCZM regulations. In addition, the Secretary will make his own initial determination of consistency. If any comments are received suggesting that the action is not consistent, or if the Secretary of DNR makes an initial determination that the action is not consistent, the Secretary of DNR will attempt, through negotiation, to obtain modifications to the project or ensure that other appropriate steps were taken to achieve consistency. If the conflict cannot be solved to the mutual satisfaction of all reviewers, the Secretary of DNR will review all comments and make a determination of consistency or lack of consistency on behalf of the State of Louisiana.

C) USES OF REGIONAL BENEFIT

1) Introduction

The CZMA requires that the state program be able to prevent local governments from unreasonably restricting uses of regional benefit. Section 306(e)(2) states:

Prior to granting approval, the Secretary shall also find that the program provides...for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

To meet this requirement, 15 CFR Section 923.12 requires the state to identify what constitutes uses of regional benefit and identify and utilize methods to assure that local land and water use regulations do not unreasonably restrict or exclude uses of regional benefit.

2) Identification of Uses of Regional Benefit

A use of regional benefit is a use which beneficially affects more than one parish or has beneficial interstate effects, and which has direct and significant impact on coastal waters. Uses of regional benefit include the following types of uses, if the particular use meets the above definition:

- (1) Interstate natural gas transmission pipelines.
- (2) Major state or federal transportation facilities such as highways and expressways.
- (3) Major state or federal transportation facilities such as highways and expressways.
- (4) Public wildlife and fisheries management projects.
- (5) Public utility or cooperative energy generating plants.
- (6) State parks and beaches and other state owned recreational facilities.

3) Definition of Unreasonable

“Unreasonable”, for purposes of compliance with Section 306(e)(2) of the CZMA, shall mean that which would constitute arbitrary, capricious or confiscatory action as defined in the jurisprudence involving zoning and land use regulations.

4) Methods to be utilized

Act 361 provides that one goal of the state management program is:

to ensure that appropriate consideration is given to uses of regional, state or national importance, energy facility siting and the national interests in coastal resources(Section 213.8(c)(12)).

The LCRP will rely on a number of authorities and methods to insure that local governments do not unreasonably restrict or exclude uses of regional benefit. Some of these arise directly from Act 361, some from other constitutional and statutory provisions, while others are derived from judicial review of local land use decisions.

a) Expropriation

The power to acquire lands by direct purchase or expropriation is the primary means by which the state can assure that sites are available for uses of regional benefit. While involuntary acquisition of private property is prohibited for purposes of Act 361, other state agencies and certain private corporations have independent authority to acquire lands through eminent domain. The power to exercise eminent domain has been granted to the state and all its political corporations and subdivisions exercising any state governmental powers; to corporations created to pipe and market natural gas, generate or transmit electricity for power, and to conduct and operate common carrier pipelines, La. R.S. 19:2; to all port, harbor and terminal districts, La. R.S. 34:23 et seq. And 34:1226 et seq.; and La. R.S. 19:141; to the Department of Transportation and Development for highways, La. R.S. 48:218, 48:241 and expressways, La. R.S. 48:1255, 1259; to the Wildlife and Fisheries Commission for wildlife and fisheries purposes, La. R.S. 56:702; to the State Parks and Recreation Commission for Parks, La. R.S. 56:1690; to the Wildlife and Fisheries Commission and State Parks and Recreation Commission to cooperate with the Corps of Engineers for outdoor recreation and fish and wildlife enhancement, La. R.S. 56:1741; and to the Department of Public Works, La. R.S. 38:3. These authorities are sufficient to ensure that land be made available for uses of regional benefit.

b) Federal jurisdiction over natural gas pipelines

Federal court decisions have made it clear that local governments may not “unreasonably regulate” natural gas pipelines subject to federal jurisdiction. United Gas Pipeline Company v. Terrebonne Parish, 445 F. 2d 301 (CA5, 1971); Gulf Interstate Gas v. Rapides Parish, 115 F. Supp. 746 (W.D. La, 1953); New York State Natural Gas Corp. v. Elina, 182 F. Supp. 1 (W.D. N.Y., 1960).

c) Judicial review of local government action

Local governments without approved programs may regulate certain uses of regional benefit pursuant to authority granted by other laws, and local governments with an approved program may regulate land use pursuant to other authority than Act 361 (Section 2123.5(B)). A local governmental subdivision's (parish or municipality basic grant of authority to regulate land use is from Article VI, Section 17, of the Constitution of 1974. That section provides that "[s]ubject to uniform procedures established bylaw, a local governmental subdivision may (1)adopt regulations for land use, zoning, and historic preservation...and (4)adopt standards for use, construction, demolition and modification of areas and structures." According to an Attorney General's opinion of October 14, 1977, unless there are "uniform procedures established by law," local governmental bodies do not have the authority to adopt such land use regulations. Such "uniform procedures" have been established for municipalities and planning commissions, but none (other than Act 361) have been generally adopted for parish level governmental bodies—police juries. Parish level governmental bodies with home rule charters which predate the 1974 Constitution and which permit land use regulations may have such authority. However, any regulation of private property is subject to a requirement of reasonableness by Article 1, Section 4, of the Constitution and any unreasonable exercise of the police power is prohibited. And, while land use regulation decisions are presumed valid, courts will overturn them if they are illegal, arbitrary, capricious, unreasonable or an abuse of discretion. Thus, any land use decision by a local government which would restrict or exclude a use of regional benefit must be reasonable.

d) Review under Act 361

Local governmental bodies for which "uniform procedures" have not been established by law do not have the authority to adopt land use regulations. While the Act does provide such uniform procedures, such authority is sufficiently limited to prevent unreasonable use of it. Uses of regional benefit are to be managed and permitted at the state level insofar as the coastal use permitting system is concerned, hence adverse local actions obviated for purpose of Act 361.

Section 213.5(A)(1) provides that uses of state concern, i.e., those to be managed and permitted at the state level, are those:

which have impacts of greater than local significance or which significantly affect interests of regional, state or national concern.

Such uses are listed in Sec. 213.5(A); additional uses may be designated as uses of state concern by the Secretary of DNR.

Moreover, even if a use of regional benefit, or a necessary component thereof, should be subject to a local coastal use permit decision, the Act provides for state level administrative and judicial review of those decisions. They may be overturned by the coastal commission if found to

be, inter alia, “unreasonable, arbitrary or capricious or characterized by an abuse of discretion, or a clearly unwarranted exercise of discretion” (Section 213.16(4)). Judicial review is pursuant to the Louisiana is “arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion”, La. R.S. 49"964(g)(5). Standing for appeals to the coastal commission is given to the applicant, the Secretary of DNR, any affected federal, state or local governmental body, any aggrieved person or any person adversely affected by a coastal use permit decision (Section 213.11(D)).

In addition a local government with an approved local program must have “special procedures and methods for considering...uses of greater than local benefit” (Section 213.9(c)(3)(c)). These procedures and methods will be closely reviewed to assure that they do not result in unreasonable restrictions.

CHAPTER VII

PROGRAM OBJECTIVES AND ACTION ITEMS

It is recognized, given the complexity of the problems and issues identified in Chapter I and the comprehensive nature of the policies proposed in Chapter II, that it will be necessary to monitor and evaluate the implementation of the LCRP in order to determine if policy and other programmatic changes are necessary.

In order to measure the effectiveness of the LCRP a set of program objectives have been established. Briefly state, these objectives are to:

- (1) Maximize the use of areas best suited for development.
- (2) Minimize the loss of habitat areas, including wetlands and intertidal areas.
- (3) Provide for the rational siting of major facilities of state and national interest.
- (4) Expedite and streamline the process for receiving coastal use and other regulatory permits.
- (5) Enhance local government management capabilities.

The following is a discussion of each objective under which are described action items which Louisiana will pursue during the first year of Section 306 program implementation funding.

1. Maximize the Use of Areas Best Suited for Development

Some areas of the Louisiana coastal zone are more suited for development than others. These areas include those areas on fastlands and natural levee ridges, those areas supplied with appropriate infrastructure; or those areas where high intensity development already exists. The Louisiana Legislature recognized the need to direct development to appropriate sites when it passed Act 361 (Section 213.9(C)(2)). The LCRP will achieve this objective through both regulatory and non-regulatory means.

The guidelines for surface alteration provide the most specific regulatory mechanism for guiding development to suitable sites. Other guidelines also provide guidance including those for linear and oil and gas facilities.

Non-regulatory methods of achieving this objective will include information dissemination, planning and coordination. Resource and development suitability information pertaining to the coastal zone will be made

available to state and local planning agencies and the public. The planning for special areas which have suitable sites for development will be funded (see Chapter V). Finally, DNR will coordinate the LCRP with other state and federal programs in order to insure that development takes place in suitable areas. Examples of such programs would be the State Hazardous Waste Program and the Section 208 Water Quality Management Program.

2. Minimize the Loss of Habitat Areas, Including Wetlands and Intertidal Areas

The LCRP will avoid or minimize adverse alteration to habitat areas through the regulation of activities which, unchecked, could degrade the coastal environment. The general guidelines as well as those for specific activities, such as linear facilities and dredged spoil deposition, are applicable to habitat areas.

In addition to a regulatory program, the LCRP will seek to enhance the wetlands habitat through the development of a dynamic management plan pursuant to Act 361 to provide for the controlled diversion of freshwater and sediment-laden waters. Such a management plan which incorporates controlled diversion of freshwater and sediment could accomplish the following in the span of a few years: (a) the reversal or abatement of land loss (a previous study, for example, estimates that the Mississippi River would be capable of building 12.3 square miles of new land per year if diversions were initiated along the lower reaches (Gagliano, et al., 1970)); (b) the creation of new wetlands to provide additional wildlife habitat and buffers against hurricane-generated storm surges; and (c) the restoration of the freshwater-saltwater balance in the estuaries. The influx of freshwater and the creation of new wetland should result in increased fisheries production.

DNR will also initiate joint monitoring programs with state and federal agencies to provide information on natural and man-induced changes to coastal resources. The types of monitoring programs proposed for the first implementation year include: the measurement of vegetation and other characteristics of barrier islands; measuring the outcomes of freshwater diversion (using remote sensing imagery and field reconnaissance); the use of Landsat, and other remote sensing imagery, to assess a wide variety of environmental changes; the application of modeling to the prediction of cumulative impacts (with U.S. Corps of Engineers, New Orleans District); measuring shoreline change from the aerial photography archives of the National Ocean Survey; and the use of biologists (from the Louisiana Department of Wildlife and Fisheries) to provide field data for a approximately one-third of the coastal use permit applications. Parameters to be measured relate to changes in land loss, in shoreline length and complexity, in barrier island characteristics, in fresh and salt water imbalances, in water quality (turbidity, nutrients and pollutants), and in critical ecological areas. Wildlife and Fisheries field observations will include data on vegetation species, endangered species, and fish/shell fish resources at permit application sites. Wildlife and Fisheries biologists will also monitor compliance with permit conditions and the presence of activities for which

no permit application was received. The overall impact of these monitoring and surveillance efforts will be to provide a data base to support the minimization of habitat loss.

Finally, DNR will assist approved local programs and state and local agencies carrying out projects consistent with the guidelines, related to the management, development, preservation or restoration of special areas discussed in Chapter V. DNR will also consider using Coastal Energy Impact Program (CEIP) funds available under Section 308 of the CZMA where appropriate. (Section 213.10(D), (E), Act 361).

3. Provide for the Rational Siting of Major Facilities of State and National Interest

The LCRP, through its policies and guidelines, will direct major facilities towards the most suitable sites in the coastal zone. In this way the relationship of the facility to the site and the natural environment is optimized and adverse impacts of such facilities to the wetlands are minimized. Specifically, guideline 1.8 provides for the balancing of public benefits and adverse impacts in the consideration of uses which serve an important regional, state and/or national interest. Furthermore, special provisions in this guideline provide for coastal water dependent activities as one of the priorities.

DNR will carry out other non-regulatory activities to meet this objective including: cooperation and coordination with the Louisiana deep water and other port authorities and others to develop special area plans and procedures to assist in the pursuit of their activities in the coastal zone; and the initiation of special studies in cooperation with other public agencies, to develop criteria and standards for energy activities in the coastal zone, e.g., directional drilling studies.

4. Expedite and Streamline the Process for Receiving Coastal Use and Other Regulator Permits

The LCRP seeks to consolidate permitting requirements and reduce permit review time through the coordinated permitting requirements and reduce permit review time through the coordinated permitting process and a memorandum of understanding (MOU) with the U.S. Army Corps of Engineers and other federal and state agencies. In addition, DNR will begin development of a computerized permit tracking system to insure that the flow of permits will be smooth and efficient, and that permits will be reviewed in a timely fashion.

Specifically, Section 213.14 (B) of Act 361 directed the Secretary of DNR, the Administrator, local government and all other relevant governmental bodies to establish such a coordinated coastal permitting process through interagency agreements. The coordinated coastal permitting process will consist of a single application form which contains sufficient information so that all affected governmental agencies can carry out their review responsibilities, a "one window" system for applications, one public hearing and a reduction in the period for permit review.

The LCRP has developed memoranda of understanding with DNR-Office of Conservation, DNR-Division of State Lands, DNR-Office of Environmental Affairs, DHHR, DOA, and DCRT that begin to achieve the objectives for a coordinated permitting process set out in Act 361. These agreements establish the procedures that will be followed in the joint review of permits, the method of joint public notice and joint public hearing procedures. The LCRP will continue to work with each agency to determine what information will be required on the permit application so the permit review process can be expedited.

This coordinated permitting process will be integrated with a computerized permit tracking system resulting in a more effective evaluation of each application in terms of time, cost and quality of review. Duplication of work will be reduced and applicants will be assured of timely review. This system is designed to benefit the general public by assisting in approved decision-making and reduced paperwork for applicants.

DNR will also prepare and publish guidebooks and other explanatory materials to aid developers and private citizens in understanding how the coastal use guidelines are to be used. These guidebooks will provide examples of how projects can be sited and designed to maximize conformance with the guidelines.

5. Enhance Local Government's Management Capabilities

Through funding and technical assistance made available by the LCRP, local governments will continue to take part in the planning and management of the valuable coastal resources within their boundaries. A coordinated management effort involving both the state and local levels of government will best serve the people who live and work in Louisiana's coastal zone.

DNR will continue to enter into contracts with local governments to provide financial assistance on a matching fund basis to aid in the development and implementation of approved local programs (Section 213.9(J) Act 361). DNR will also provide technical assistance in the form of expertise and resource and technical information.

PART III
ALTERNATIVES TO THE PROPOSED ACTION

PART III

ALTERNATIVES TO THE PROPOSED ACTION

Given the nature of the proposed action, which is approval of the Louisiana Coastal Resources Program pursuant to section 306 of the CZMA, all federal alternatives involve a decision to delay or deny approval. To delay or deny approval could be based on failure of the Louisiana program to meet any one of the requirements of the CZMA. In approving a CZM program affirmative findings must be made by the Assistant Administrator for Coastal Zone Management on more than twenty requirements.

As noted in Part I of this document, the development of the LCRP has been very controversial and has required the resolution of numerous complex issues, many of which could have resulted in a program deficient with respect to the requirements of the CZMA. The Assistant Administrator for Coastal Zone Management has made a preliminary determination that any such deficiencies have been addressed and that Louisiana has met the requirements for program approval under Section 306 of the CZMA.

However, in order to elicit public and agency comment and assure that the Assistant Administrator's initial determination is correct, this section identifies a number of issue areas where there may be possible deficiencies and considers the alternatives of delaying or denying approval based upon each issue area.

Before examining the alternatives, the following section identifies the generalized impacts that would result from delay or denial on any basis.

1. Loss of Federal Funds to Administer the Program

Under Section 306, Louisiana would receive approximately two million dollars per year to administer its coastal management program. The loss of federal Section 306 funds would result in the inability of the state to provide adequate staffing and administrative support to coordinate and evaluate coastal actions and coastal use permits, and to assure that government agencies operate consistently with coastal policies. Local governments would also be without the pass-through funds necessary to identify and resolve local coastal resource issues through the development governments, essential for the development of an effective coastal management program would also be curtailed due to limited funds. To deny approval of this program would also make it difficult for the state to develop a number of critical non-regulatory aspects of the program including the coordinated permit process discussed in Chapter IV and the development of the special area programs discussed in Chapter V. Denial of approval would also jeopardize the eligibility of the state to receive Coastal Energy Impact Program (CEIP) funds pursuant to Section 308 of the CZMA.

The option of delaying approval would have the same general impacts noted above albeit of a shorter duration. The impact of delaying approval would nonetheless be severe due to the inability of the state to receive additional Section 305(d) program development funds from OCZM. This is due to the lapsing of Congressional authorization for the Section 305 program which occurred at the end of FY 79, (September 30, 1979). Although the state has received federal Section 305(d) funding to carry them through the end of March 1980, program approval much beyond that point in time will result in a severe financial burden to the State and significantly hinder present efforts to increase CMS/DNR in-house coastal management staff.

2. Loss of Consistency of Federal Actions with Louisiana's Coastal Zone Management Program and its Policies

Program approval would mean that federal actions, in or directly affecting the Louisiana coastal zone, would have to be consistent with the state's program under Section 307(c) of the CZMA. This would be of particular concern to the State of Louisiana as its coastal zone is heavily influenced by federal activity. Loss of federal consistency in the state's coastal zone could have significant and adverse effects on the resources of the state's coastal zone.

Federal Alternatives

Alternative 1: The Assistant Administrator could delay or deny approval of the the Louisiana Program if the proposed coastal use guidelines are not specific enough to ensure a sufficient degree of predictability in decisionmaking.

The proposed coastal use guidelines include in Chapter II are the principal policy base of the LCRP. In light of the crucial role that the guidelines will play in coastal decisionmaking it is imperative that the guidelines be understandable and provide clear sense of direction and predictability for decision-makers who must take actions pursuant to or consistent with the LCRP.

Most reviewers of the draft guidelines which were made available in the March 1979 Hearing Draft, expressed the belief that the draft guidelines were too ambiguous, leaving too much discretion to the Administrator of the program. Most reviewers noted that the use of numerous undefined terms such as "best available", "when appropriate", "if feasible" and guidelines would prevent predictable and consistent application of the guidelines by decision-makers. Many commentators also noted that it was difficult to understand how conflicting environmental protection and development objectives expressed in the guidelines would be balanced.

In response to the concerns raised by commentators and OCZM concerning the draft guidelines, the CMS made substantial revisions to the guidelines. These revisions include those made prior to the submission of revised guidelines to the Coastal Commission on May 30, 1979, as well as revisions made as a result of the two Coastal Commission reviews which were concluded on August 14, 1979. Although numerous revisions have

been made, varying in both scope and detail, the major revisions fall into the following three categories:

- 1) A reduction of the number of terms used to modify guideline standards.
- 2) The development of a new guideline 1.8, which provides the “balancing test” for those standards modified by the term “to the maximum extent practicable”.
- 3) The development of additional definitions to be used in the application of the guidelines.

Considerable effort was made toward simplifying the structure of individual guidelines in order to more clearly indicate their enforceability. Of critical importance was the effort to reduce the number of modifying terms such as “where practical”, “if feasible” etc. As a result, most guidelines either use the mandatory language “shall” or “shall to the maximum extent practicable”. Such changes provide for a clearer understanding of the enforceability of each individual guideline.

Directly related to the above efforts, a new guideline 1.8 was developed in order to clarify the application of the guideline standards modified by the term “to the maximum extent practicable”. This guideline identifies the criteria that decision-makers must consider and make findings pursuant thereto prior to allowing an activity that would not be in compliance with either an individual or a number of guidelines. It also provides for the conditioning of the permits such that the adverse impacts identified in guideline 1.7 and guideline(s) at issue are minimized through the use of alternative locations, methods or practices. In response to comments on the DEIS on the LCRP, additional materials have also been added to Chapter II to clarify the use of guideline 1.8.

Finally, DNR has developed additional definitions in order to provide for more predictable applications of the guidelines. These definitions are included with the guidelines in Chapter II and in DNR’s procedural rules for the coastal use permit program in Appendix c. Examples of key terms which have been defined include “hurricane or flood protection levees,” “impoundment levees”, “development levees”, and “sediment deposition systems”.

The Assistant Administrator believes that the above noted changes are a significant improvement and that the present guidelines provide adequate specificity and predictability for program implementation.

However, the Assistant Administrator could delay or deny program approval based on concerns raised as a result of the review of this document. In response to such action the state could:

- 1) Make no additional changes in the guidelines, or
- 2) Make additional changes to the guidelines as identified by OCZM. This would require an additional review of new or revised guidelines by the coastal commission prior

to the final review by the House and Senate Natural Resources Committees, and the governor and adoption by DNR.

Alternative II: The Assistant Administrator could delay or deny program approval if the exemptions to the coastal use permit program provided for by Act 361 are of significant scope such that the program does not provide for the management of all uses which could have a direct and significant impact on coastal waters.

As is the case with the legislative proceedings involving most comprehensive land and water use management programs, the issue of determining which uses would or would not be subject to the coastal use permit process was a major issue during the legislative action concerning Act 361. Section 231.15 of Act 361 as finally enacted provides for a number of exemptions for the coastal use permit program. While many of the exemptions, e.g. the "normal maintenance of existing structure..." are common to most coastal legislation, a number of reviewers of the March 1979 Hearing Draft and the September 1979 DEIS expressed concern over several classes of exemptions. The following is a discussion describing the issues related to those exemptions.

- Activities on Lands Above 5' Mean Sea Level or Within Fast Lands

The first class of exemption includes activities occurring wholly on lands five feet above mean sea level or within fast lands contained in Sections 213.15 A(1), (2) and (9) of the Act. These exemptions were included in the Act based on the belief that uses of such areas would not normally have a "direct and significant impact on coastal waters", the crucial criteria of the CZMA to be used in determining those uses which must be subject to management by state coastal programs. Act 361 does, however, contain several important provisions relating to the above exemptions. First, in order to retain flexibility with regard to such uses Sections 213.15A(1), (2) and (9) also provide that the Secretary of DNR may require a coastal use permit for such exemptions when he(she) finds that a particular use would have a direct and significant impact on coastal waters. This finding is subject to appeal to the coastal commission, with the burden of proof being on the secretary.

Second, the definition of fast lands contained in Section 2.3.3(9) of the Act limits such areas to lands surrounded by existing natural or man-made levees or future such formations such that activities, not including the pumping of water for drainage purposes, within the surrounded area would not have direct and significant impacts on coastal waters. Since this definition limits the application of the fast lands exemptions to uses occurring only on land surrounded by natural or man-made levees, it is reasonable to assume that uses within these levees would not involve the significant impact on coastal waters. As noted above, where they do, the secretary can reach the use under Act 361. In addition, the discharge of water drained from within fast land areas at specific outfalls would be subject to management as a point source under federal and state water pollution control programs, with the state standards having been incorporated into the LCRP.

- Residences and Camps

Several reviewers have expressed concern over the exemption for “the construction of a residence or camp” contained in Section 213.15, A(7) of the Act, indicating the potential for adverse cumulative impacts that might result from a concentration of such activities in a given area.

The LCRP has sought to minimize the cumulative impacts of such activities by clarifying the application of these exemption in the procedural rules for the coastal use permit program found in Appendix cl, Part II. These rules provide that the exemption applies only to non-commercial and non-profit single family structures for use by the owner of the land and not to the building of more than one structure such as in subdividing, tract development, speculative building, or recreational community development. The rules also limit the exemption to include only such bulkheading, dredging and/or filling necessary for the structure itself and the installation and maintenance of sewage facilities.

- Agricultural, Forestry and Aquaculture Activities

Section 213.15(3) also provides that “agricultural, forestry and aquaculture activities on land consistently used in the past for such activities” are exempt for the coastal use permit program. In response to a number of comments on the Hearing Draft and DEIS, the procedural rules found in Appendix cl provide, in part, that this exemption is only applicable when an activity is not intended to nor will it result in changing the use of the land to which the use has been consistently used for in the past.

- Activities within the Jurisdiction of the Offshore Terminal Authority

Section 213.15 A(6), exempts uses and activities within the jurisdiction of the Offshore Terminal Authority (OTA) from the coastal use permit program. While this exemption may seem significant, Section 213.10(c) which designates the areas subject to the jurisdiction of OTA as a special management area, stipulates that the Superport environmental protection plan required by R.S. 34:3113 by the management guidelines for the area in question. As explained in Chapter V this protection plan is a result of an enormous amount of research and study, and provide sufficient environmental standards to minimize the impact of the LOOP facility on the coastal resources for the state.

The Assistant Administrator believes that the above exemption to the coastal use permit program as provided for in Act 361 and DNR procedural rules do not represent significant gaps in state authority preventing management of uses that have direct and significant impact on coastal waters. However, the Assistant Administrator could deny or delay approval based on concerns raised as a result of the review of this document. In response to such action the state could:

- 1) Make no changes to the program
- 2) Attempt to more clearly define or limit the exemptions contained in the Act, through changes in DNR’s procedural rules, or

- 3) Attempt to seek amendments to Act 361 during the 1980 state legislative session, which would clarify or limit such exemptions. This would result in a considerable delay in program approval.

PART IV
DESCRIPTION OF THE AFFECTED ENVIRONMENT

PART IV

AFFECTED ENVIRONMENT

A brief description of the affected environment may be found in Chapter I, Overview. For a more indepth description and analysis of the Louisiana coastal zone see selected material from Appendix i, Annotated Bibliography of Work Products, including: (1) Louisiana Coastal Resources Inventory, Volume 1, which is an inventory by parish including recreational facilities, historical, cultural and tourist features, archaeological sites, and development areas of particular concern; (2) Louisiana Shorefront Access Plan which is a presentation of coastal shorefront access locations appropriate for acquisition or expansion as public recreation and preservation areas along with cost estimates and possible sources of funding; (3) Unique Ecological Features of the Louisiana Coast which describes 23 categories of unique ecological features (zoological, botanical, and geological) of the Louisiana Coast; (4) Cumulative Impact Studies in the Louisiana Coastal Zone: Eutrophication and Land Loss which is an examination of the causes and consequences of eutrophication and land loss in the coastal zone; and (5) The Coastal Zone: An Overview of Economic, Recreational and Demographic Patterns which is a general perspective. Please refer to the note at the end of Appendix i concerning the availability of the above documents.

PART V
ENVIRONMENTAL CONSEQUENCES

PART V
PROBABLY IMPACTS OF THE PROPOSED
ACTION ON THE ENVIRONMENT

The federal action is the proposed approval of the LCRP as having met the requirements of the CZMA and, after approval, the awarding of federal grants-in-aid to assist Louisiana in implementing and administering its program. Also, approval places an obligation on federal agencies to act in a manner consistent, to the maximum extent practicable, with the approved program, thereby significantly impacting the federal decision-making process as it relates to land and water use activities and funding in the coastal zone. This part addresses the direct impacts associated with the above action, as well as the secondary impacts of implementing the state program.

A) DIRECT EFFECTS OF FEDERAL APPROVAL

The intent of the CZMA is to promote the wise use of the nation's coasts. The CZMA encourages states to achieve this goal through better coordination of government actions, explicit recognition of the long-term consequences of development decisions, and the institution of a more rational decisionmaking process. This process, which could affect much of the future activity in the coastal zone, will have a substantial environmental impact.

The approval of the LCRP by the federal government will have an effect on both the environmental and socioeconomic uses of the coastal zone. The LCRP will, in many cases, change the balance in the decision-making process between environmental and developmental concerns. Approval of the program will result in a net positive environmental effect.

The fundamental criteria for assessing these impacts should be the CZMA's declaration of policy: "to achieve wise use of land and water resources of the coastal zone giving full consideration to ecological, cultural, historic and aesthetic values as well as the need for economic development."

Management of Louisiana's coastal zone and its resources is beneficial to the public welfare for many reasons, both economic and cultural. The wetlands provide the nursery area for shrimp, crabs, oysters and many fish which are important to the Louisiana fishing industry, the third largest industry in the state. The fishing and trapping industry which are dependent on the wetlands are also the source for much of the state's unique cultural values. The protection of the coastal zone for these economic and cultural value may, however, cause adverse economic effects on development interests, including property owners and potential property owners whose plans are limited or modified by the program.

The LCRP is a comprehensive program which will be implemented over a period of many years. It is impossible to assess discrete impacts that will occur over this time, but a few points can be made. Resource inventories, designation of boundaries, permissible uses, areas of particular

concern, areas to be preserved or restored and consideration of alternatives are all a part of the overall process associated with managing coastal resources in Louisiana. The overall purpose of this EIS is to determine if implementation of the LCRP process will meet the objectives which the state has set and meet the broader national objectives of the CZMA.

Impacts associated with federal approval of the LCRP fall into two categories: (1) impacts due to a direct increase of funds and funding options to the state and local governments, and (2) impacts from the implementation of the CZMA.

Although the LCRP could be implemented as a state coastal management program separate from participation under the CZMA, federal approval offers several advantages to the state and allows a more comprehensive and effective program. The two major advantages of having federal approval are: 1) to be eligible for Section 306 administrative grants for the administration of the state and local CZM programs, and 2) to ensure that federal activities undertaken in the coastal zone will be consistent with the state and local CZM programs.

Program Funding

Federal approval will permit the OCZM to award Section 306 program administrative grants to Louisiana. This will allow increased use of resource management specialists at both the state and local government levels. In turn, this will improve resource management decisionmaking in the coastal zone. Section 306 grants will also be used to help administer, enforce and improve the state and local agencies to obtain information on coastal hazards, sites for energy, transportation, industry and commerce facilities and for other needs which will increase the quality of the information base for coastal zone management decision. An increase in coastal management staff will speed the permit review and appeals system and provide better enforcement of the program regulations, and thus help meet the CZMA objective of more coordinated governmental action.

Under Section 306 of the CZMA, Louisiana will be eligible to receive approximately two million dollars to carry out the state management program. These funds will be used for the development and implementation of state and local programs. This will improve the ability of both state and local governments to manage coastal resources, and allow for sharing of the coastal regulatory authority. Federal approval of the LCRP will also continue the eligibility of the state to receive Coastal Energy Impact Program (CEIP) funds pursuant to Section 308 of the CZMA.

Federal Consistency

Federal approval and state implementation of Louisiana's Coastal Resources Program will have implications for federal agency actions. Approval of the state's program will lead to operation of the federal consistency provisions of the CZMA (Section 307(c) and (d)). These provisions are described in Chapter VI.

The purpose of the federal consistency provisions is to allow closer cooperation and coordination among federal, state, and local government agencies involved in coastal related activities and management. This desirable impact is one of the principal objectives of the CZMA.

The Louisiana Coastal Resources Program has evolved with considerable assistance from the numerous federal agencies with responsibility for activities in the coastal zone. No federal activities are specifically excluded from the coastal zone, although these activities may have to meet environmental standards to obtain coastal sites or be located outside the coastal zone if adverse environmental effects cannot be sufficiently mitigated.

When federal agencies undertake activities, including development projects, directly affecting the state's coastal zone, they will have to notify the state of the proposed action. The state will review such federal activities to ensure that the proposed action is consistent with the state or approved local plans. In the event of a serious disagreement between the state and federal agency wither party may seek mediation by the Secretary of Commerce. The availability of early federal-state consultation and the mediation services of the Secretary of Commerce will increase the potential for conflict resolution. These procedures will provide all parties with an opportunity to balance environmental concerns with other national, state and local interests.

In cases where the state judges that a proposed federal license, permit or assistance activity is inconsistent with the state or local coastal program, the federal agency will be required to deny approval for the activities. State objections must be based upon the substantive requirements of the management program. State objections may require federally regulated and assisted projects to consider and locate in alternative sites thereby causing adverse impacts in non-coastal marine or distant coastal areas. State objections may otherwise suggest ways projects could be modified to achieve conformance with the management program.

In certain instances, upon appeal, a state objection to a proposed federally licensed or assisted activity may be set aside by the Secretary of Commerce if the proposed, activity is consistent with the objective of the CZMA or is in the interest of national security. In the former case, the secretary must find that (1)the activity will not cause an adverse impact on the coastal zone sufficient to outweigh its contribution to the national interest; (2) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the management program; and (3)that the proposed activity will not violate requirements of the Federal Clean Water Act or the Clean Air Act. Even if state objectives are set aside by the secretary, the override will be dependent upon consideration of the environmental protection needs. This procedure conforms with NEPA's objective for incorporating environmental values in federal agency decision-making.

Where the state determines that a proposed federally regulated or assisted project is consistent with the requirements of the LCRP, the federal agency may approve the project. Notwithstanding state approval for the project, the federal agency is not required to approve the license,

permit or assistance application. The federal agency may disapprove the project based upon the Clean Water Act, Clean Air Act, NEPA, the Endangered Species Act, the Fish and Wildlife Coordination Act, or other overriding national interests where federal criteria are more stringent than the state's management program requirements. Between federal and state environmental requirements for the coastal zone, the more stringent apply.

National Interest

Federal approval of the state's program will also certify that the state has an acceptable procedure to insure the adequate consideration of the national interest involved in the siting of facilities so as to meet requirements which are other than local in nature. These facilities might involve energy production or transmission; recreation; interstate transportation; production of food and fiber; preservation of life and property; nation defense; historic, culture, aesthetic, and conservation values; and mineral resources to the extent they are dependent on or related to the coastal zone.

This policy requirement of the CZMA is intended to assure that national concerns related to facility siting are expressed and dealt with in the development and implementation of a state's coastal management program. The requirement should not be construed as compelling state to propose a program which accommodates certain types of facilities. It works to assure that such national concerns are not arbitrarily excluded or unreasonably restricted in the management program.

This provision might have two impacts. First, it insures that a state has a process and a program and a program that does not prohibit or exclude any use or activity dependent on the coastal zone. In the absence of a comprehensive program such considerations might simply be ignored by oversight or default. This requirement will insure they are specifically considered. On the other hand, the existence of a consultative procedure should lead to more deliberate and less fragmented decisionmaking concerning the siting of facilities in the coastal zone.

B) INDIRECT EFFECTS OF FEDERAL APPROVAL

1) Social and Economic Impacts of the LCRP

Since the LCRP will be implemented in conjunction with many other federal, state and local government programs in social and economic systems that are constantly changing, the potential socio-economic impacts of the program can only be discussed in general terms and trends.

Programs such as the LCRP are intended to have an impact on existing regulatory mechanisms. Some are designed as environmental protection measures and have an obvious effect on environmental resources. It is the socio-economic impacts of such programs that are usually insufficiently recognized. What follows is an identification of those socio-economic impacts which can be discerned.

The LCRP seeks to protect, develop, and where feasible, restore the resources of the state's coastal zone and at the same time encourage multiple use of the coastal resources that are consistent with the goals of the program. The LCRP anticipates using the information developed by the environmental and socio-economic needs to provide both state and local governments with an improved decision-making process for determining coastal land and water uses, siting of facilities in the national interest and generally provide increased predictability about what can and cannot occur in the coastal zone.

The policy of this program is to understand both the operation of the environmental and socio-economic systems of the coastal zone and to balance the needs of the two with consistent policy decisions. The program seeks to protect key ecological areas which are important to the environment of the state's wetlands by developing performance standards which do not prohibit such developments as gas and oil production in the coastal zone but which minimize their adverse environmental impact. The LCRP may increase the costs of certain industries and developments located in the coastal zone by requiring certain performance specifications that protect environment.

Based on a study of the potential impacts of coastal management programs conducted by the Real Estate Research Corporation for the Office of Coastal Zone Management, benefits of coastal management will accrue to people living and working within the coastal zone area as well as to people throughout the State and Nation. These benefits will be of various kinds and will occur in different ways and degrees. The following major categories of beneficiaries can be identified: owners of property directly affected by implementation decisions, neighboring property owners, owners of businesses whose productivity or market attractiveness would be enhanced by the LCRP policies, government at all levels, and the general public.

This study also concludes that benefits of coastal zone management will be the positive changes which occur in the nature, scale, distribution, and pace of elements such as the following: production (including manufacturing, agriculture, mining, fishing), utility services and costs, business sales, employment opportunities, population and the labor force, housing demand and supply, construction, financing and investment, property values, government costs and revenues, educational and recreational opportunities, and aesthetics.

Planning and managing the coastal zones of the United State consists of the use of foresight in cooperatively determining how to both preserve valuable natural resources and accommodate the needs of an expanding population and economy. To achieve this balance involves trade offs which include some short-run positive and negative effects. Long-run benefits from enhanced productivity of renewable resources—fisheries, wildlife, and forests—would also be realized.

Potential economic benefits of the coastal zone policies have the following attributes:

- ° They can be “one time only” or “recurring,”
- ° They can cause net increases in economic activity or merely shift benefits among individuals or groups,
- ° Costs may be incurred in their attainment—such as, expenditures for shoreline restoration or pollution control, and
- ° Secondary “spin-off” effects may be felt—both positive and negative, depending on the nature of the policies and the economic activities affected.

The following list of benefits of coastal zone planning and management is similar to the benefits of most State and local planning activities:

- ° Reduced cost of new development,
- ° Reduced cost of transportation,
- ° Better preservation of natural environment,
- ° Less pollution,
- ° Less congestion,
- ° Higher quality development,
- ° Better utilization of sunk investments,
- ° Better fit of supply and demand.
- ° Greater awareness of needs and opportunities,
- ° Less uncertainty regarding future potentials, and
- ° Improved possibilities for effective actions based on understanding and consensus regarding goals.

Potential economic benefits can include increased productivity, higher sales, more jobs, greater demand for facilities and services, increased property values, lower taxes, reduced or stabilized consumer prices, and heightened satisfaction with one’s physical environment. Prudent coastal zone planning, therefore, results in a balance between conservation of irreplaceable natural resources and the needs—job creation, housing, recreation, and shopping—of an expanding economy. While some coastal

zone activities result in net gains or net losses for the local economy, in most instances the short-term effects of the program cause a redistribution of assets.

Some lost expectations will undoubtedly be encountered, but gains elsewhere should offset these losses. In those cases where regulations would actually result in a legally-determined taking, the regulations would be declared void or compensation paid. Reduced property taxes could help because offset severe losses. Planning stabilizes erratic "swings" in expectations because it results in less uncertainty in future prospects of land investment. While there may be short-term lags as the economy adjusts to changes induced by the LCRP, long-run benefits are likely to balance or exceed costs. For example, some industrial plants may not be built in the coastal zone, in part because environmental protection regulations may make them too costly. They would yield an inadequate rate of return on equity when compared to alternative opportunities. However, that same development proposal may be equally unattractive outside the coastal zone. Moreover, lower financing costs or improved marketing outlook could result in a decision to ultimately go ahead with a deferred project despite the costs of complying with coastal zone regulation. These same regulations will provide consideration for coastal water dependent economic activities-tourism, recreation, fisheries, and oil and gas development.

The Real Estate Research Corporation report states the following with respect to property values:

The key determinants of land values include:

- ° Natural site characteristics and environment,
- ° Man-made site characteristics and environment,
- ° Community image,
- ° Demand for particular land uses,
- ° Access,
- ° Utilities,
- ° Public facilities and services,
- ° Taxes, and
- ° Land use and development regulations.

In general, nationwide, about 55 percent of land value is attributable to government action, with the balance resulting from the actions of the property owner, his or her neighbors, and the general public. Governments influence land values through use or design regulations, improving access, providing public facilities and services, preserving favorable

“images,” and through its tax rates and policies. Table 11 shows the different types of government action that impact property values, and their relative importance in determining the overall net effect of coastal zone regulations on land value. Restricting land use options will lower land values of subject properties, but will also transfer any unsatisfied demand to other competitive sites not subject to use restrictions. Regulations requiring minimization of adverse environmental impacts result in higher development costs but also result in more attractive, desirable sites. Improved access and public facility provision generally impact positively on land values; however, access improvements can have such negative effects as increased noise and air pollution, or reduced privacy.

TABLE II

IMPACTS OF GOVERNMENT ACTION ON PROPERTY VALUES

<u>Type of Action</u>	<u>Impact on Values of Subject Property</u>	<u>Impact on Values of Neighboring or Competitive Properties</u>	<u>Net Effect on Property Values</u>	<u>Relative Importance of Specific Actions in Determining Impacts</u>
Restrictions on land use	Value declines	Value rises	Redistributinal	Very Important
Resource amenities protected or restored by government action	Value rises	Value rises	Slightly positive to very positive	Very Important
Concentrating development in existing communities	If still undeveloped, value declines; if already improved, value rises	Value rises	Positive	Very Important
Providing infrastructure, public facilities, and services	Value rises	Values unchanged	Positive	Important
Tax reduction or deferral for regulated, restricted, or encouraged uses of coastal properties	Value rises	Values unchanged	Slightly positive	Less important than use restrictions or amenity protection

New Development Impacts

Louisiana's coastal area is developing faster than the northern part of the state because of the increased development of river related industries. The state and local coastal management programs require the protection of wetland areas with performance guidelines restricting marsh drainage, changes in sediment transport, changes in water drainage patterns, etc. These restrictions encourage development in upland areas (above the five-foot contour) and in existing fastlands (previously leveed areas), the uses of which are exempt from the coastal use permit program unless it is shown that they are causing a direct and significant impact on coastal waters. These lands although by no means fully developed at present, are in limited quantity. The LCRP will therefore tend to increase the demand on these more easily developed areas and to increase the values for development purposes of the less restricted lands. The development value of existing wetlands on the other hand will probably diminish because of stringent performance standards which may cause development in some of these areas to be more expensive. Economic and social benefits will result from application of the guidelines by encouraging industrial, urban, and commercial development in upland and other sites with suitable foundations. This will benefit developers by reducing maintenance costs resulting from damage caused by unstable substrates.

Fisheries Impacts

Commercial fishing is the third largest industry in the state and sport fishing is one of the state's largest recreational activities. Both of these activities are directly related to the amount of wetlands in the state. It has been shown that there is a direct relationship between fishery production and area of wetland. Louisiana has approximately 25% of the wetlands in the United States and produces nearly 28% of the United States' fishery production. The LCRP policies for keeping wetlands and other estuarine areas in an operative state as nursery feeding areas should have a beneficial impact on both commercial and sport fishing by reducing land loss and the destruction of important fishery nursery grounds.

Port and Harbor Impacts

The ports and harbors of Louisiana have been and will continue to be extremely important to the development of Louisiana and the central portion of the United States. The Mississippi River is the gateway for goods and products to the central states. The LCRP realizes the importance of Louisiana's ports and harbors to both the state's economy and to the nation. The goals of the program encourage the continued development of existing ports and harbors when the benefit of their development has been weighed against their impact on natural resources and when the protection of the state's natural resources are considered to the maximum extent practicable. The program encourages new developments only when existing facilities can no longer meet the needs of the state.

The LCRP guidelines concerning linear facilities, dredge and spoil deposition, surface and hydrologic modifications, erosion, etc. will all have an impact on the development of port and harbor facilities by increasing

the restrictions in the way these facilities are developed. These guidelines will increase the costs of such development but should protect the state's natural resources from unnecessary damage.

Gas and Oil Production

The petrochemical industry is Louisiana's largest employer. A large part of the nation's gas and oil is produced in Louisiana or on the state's outer continental shelf. The continued development of these resources is absolutely essential to the economy of the state. The LRP encourages the continued development of this industry.

The program requires consideration of the use of directional drilling, the use of existing pipeline canals and the reduction of crossing of important habitat areas with pipeline canals.

Guidelines restricting saltwater intrusion, the deposition of spoil the modification of hydrologic sediment transport systems, the crossing of barrier islands, etc. will increase the cost of this development but will protect Louisiana's natural resources for future generations.

Enhancement Projects

The LCRP policies will reduce but will not entirely prevent continued habitat losses due to individual projects. However, the policies of Act 351 do provide for the planning of fresh-water diversions, sediment transportation systems and the management of both existing and artificially-developed barrier islands. Each of these enhancement approaches to reducing land loss and salt water intrusion will have positive environmental impacts, offsetting other adverse impacts.

2) Institutional Impacts

State Coordination

Cooperation among all levels of government, especially among state agencies, is an objective and requirement of the program. Act 361 specifically states that the constitutional authority of state agencies shall not be abridged.

Permits issued by the Louisiana Department of Natural Resources for location, drilling, exploration and production of oil, gas, sulphur or other minerals shall be issued in lieu of coastal use permits, provided that these permitted activities are consistent with the state guidelines, the state program, and any affected approved local program. Similarly, permits issued by the Louisiana Department of Wildlife and Fisheries for leasing, seeding, cultivation, planting, harvesting or marking of oyster bedding grounds shall be issued in lieu of coastal use permits provided that such permitted activities are consistent with the state guidelines, the state program and any affected local program.

In general, any agency undertaking, conducting, or supporting activities directly affecting the coastal zone shall ensure that such activities shall be consistent to the maximum extent practicable with the state program and any affected local program. Further, governmental bodies shall fully coordinate their activities directly affecting the coastal zone with the state program and affected approved local programs. Memoranda of Understanding between the LCRP and the other major state agencies are discussed in Chapter IV.

Local-State Relationship

The program sets up a shared state and local responsibility to manage coastal resources. In doing so, the relative responsibilities and obligations of state and local governments, and their relationships, are changed. The most significant change is the obligation on the part of state government to follow the provisions of local coastal programs which have been developed and approved pursuant to the provisions of Act 361. In turn, local governments are obligated to consider regional state and national interests and needs. The effect of the state-local approach is to substitute collaboration and cooperation of confrontation.

Citizen Participation

The public involvement in coastal management to date has been extensive. The program calls for continued substantial citizen and interest group participation in decisions about the allocation of coastal resources. This will facilitate accountable and representative government decision-making.

The Coastal Resources Program has, since its inception, sought to provide for adequate public involvement by means of a number of public involvement and informative programs.

The Cote de la Louisiane newsletter was established in 1975. The purpose of this newsletter is to keep citizens and officials informed of current CZM issues as well as the state of the Louisiana program. A continuing effort to place on the growing mailing list all persons with a particular interest in coastal management, especially those who will be directly affected by the program, has been made. The Spring, 1979, Cote de la Louisiane mailing list consisted of over 5,000 persons and organizations. The two public hearings on the hearing draft were announced on the front page of the April, 1979, Cote de la Louisiane. Also, the name, address, and phone number of the person to contact to obtain a copy of the hearing draft was listed on the front page. During fiscal year 1976-77, the Cote de la Louisiane was sent to almost 4,000 people. This kept people informed about the happenings in the legislature, deliberations of the Coastal Commission, and results of technical reports. The newsletter also contained feature articles on individual parishes developing local CZM programs and bibliography of all LCRP technical studies.

Other public information activities include the distribution of brochures, television interviews, issuance of press releases, and the presentation of slide shows at meetings with public officials, and workshops

with public and private organizations and officials. The results of a survey, conducted in 1974 (Lindsey, et al., 1976) concerning citizen perception of coastal area planning and development, were also published by Sea Grant and made available to the Coastal Resources Program.

One of the major public participation activities in 1975 was a series of five public information meetings. Approximately 900 people attended these goals of coastal resources management and to solicit prevailing opinions regarding the problems and needs of coastal Louisiana. This was accomplished both through discussion at the meetings and through a brief questionnaire that each person in attendance was asked to fill out.

Prior to these public meetings, a series of meetings with local officials was conducted. Contact with relevant groups and agencies was also made.

An important feature of the public participation program was the establishment of advisory committees in 1976 to assist coastal parishes in the development of local CZM plans. The members of these committees represent a wide range of interests in the communities. Three slide shows concerning the resources and problems of coastal Louisiana were used extensively by the LCRP parish coordinators at the early meetings of these committees.

In addition to the efforts of the CRP parish coordinators to keep the committees informed of CZM activities at the state and federal levels, workshops are held at which representatives of the committees were given the opportunity to ask questions and make comments on the state program as well as to find out what other parishes were doing in developing their local programs.

Many of these activities are performed on an on-going basis and will continue during program implementation. The newsletter will continue to be sent to an expanding mailing list which now includes 5,200 recipients. Local advisory committees (now existing in 16 of the 17 parishes) will continue to be informed of state and federal level CZM activities and workshops will be held for their representatives providing an opportunity for local input into the state program.

Recognition of the National Interest

Implementation of LCRP will improve state recognition of the national interest in two ways. First, federal agencies which often present the national interest as expressed through national legislation, will have a forum to express their views. The second way is reflected in the manner in which the LCRP guidelines reflect the national interest. As a result, local and state government planning and management will consider the national constituency as well as the state and local constituency.

Predictability in Decisionmaking

Developers and conservationists are both calling for more predictability in land and water use decisions. Uncertainty is costly to both parties.

The numerous state and local government regulatory authorities increase uncertainty about the nature and timing of future development. The program's guidance about proper and improper uses will reduce much uncertainty about local and state desires. The program accommodates the needs of entrepreneurs who need to find sites suitable for development. These factors combine to improve private planning by providing a more predictable and stable business environment. Private costs may increase in order to conform to the programs policies and guidelines but development costs can be reduced with proper planning in some instances.

Local Ability to Respond to Impacts on Resource Developments

Through the development and implementation of their individual parish programs, local governments can anticipate and manage impacts of resource developments. The state program will provide assistance and coordination to aid local governments in their response to unanticipated developments. Organized and accessible information compiled and made by the LCRP will substantially assist in this regard.

Local-Federal Coordination

An increase in coordination between federal and local governments is required with regard to the development of local coastal programs. The federal consistency requirement of Section 307 of the CZMA will also result in greater local-federal coordination. After a local program is approved under LCRP, it will become a part of the state program and thus the federal consistency procedure will apply for the content of the local program as well. Federal agencies have an incentive to coordinate for this reason.

Coordination of Major Projects

Major resource utilization projects have effects on the state level as well as in the communities where they take place. Coordination early in the evaluation phase is essential. The LCRP will be coordinated with other programs to assure that this happens. This will be achieved through several means.

First, the LCRP guidelines provide direction for any development proposal. Second, the consistency requirements at both state and federal levels require that coordination take place and provide a legal responsibility that cannot be ignored. Third, the A-95 Clearinghouse system is in place to provide the state with local, federal and private comments on a proposal.

Cost of Government

A general increase in the public costs of governing coastal land and water areas is anticipated. These costs will be due to the planning remaining to be complete, the state and local government responsibility to review permits and actions for consistency with the program, and the administration of the program.

In some instances, the program will require substantial additional costs, especially in the case of local governments. The rules for approval of local programs require a number of planning tasks to be performed. Some parishes have adequate planning organizations which have already completed much of the groundwork. Other parishes will need financial assistance to complete their work. The costs of implementing parish programs will depend on a number of factors including the geographic area and the extent by funds made available to implement the program from the federal government. Approximately \$800,000 is intended to be made available to local governments during the first year of program implementation.

Successful coastal management should result in a net decrease in government costs after a few years, as the program is institutionalized. This will be difficult to quantify, as the savings will be mostly in terms of avoiding expenditures of public funds to pay the costs resulting from a lack of coordinated management.

3) Environmental Impacts of the Programs Policies and Guidelines

The environmental impacts of the LCRP policies and guidelines are identified in this section. The guidelines will be implemented through the planning and management actions of federal, state and local governments. The overall environmental impact of the program's policies will extend beyond the impact of the guidelines, because other state laws and regulations are incorporated. Since those laws and regulations have been considered previously, the focus here is on those changes which are to result from the introduction of the guidelines. In addition, the net positive environmental impact will surpass that level implied by narrow assessment of the guidelines due to certain enhancement activities that the LCRP will undertake relating to the management of barrier islands, freshwater diversion, and sediment transportation. These programs, which are outlined in Chapter V, will result in reduced land loss and salt water intrusion, and other environmental enhancement, separate from the framework of guidelines for permitted activities.

The coastal use guidelines have been developed for coastal land and water areas, and uses. The guidelines prescribe appropriate forms of management and priorities for the coastal areas while, at the same time, permitting some discretion in their application, especially to local governments with approved local programs.

The expected consequences of implementing each guideline are traced below. It should be noted that, in many cases, several guidelines may apply to a proposed area or activity. Similarly, the impacts of implementing the guidelines may well be cumulative, although the following discussion treats each guideline discretely. The full text of each guideline is not included at this point, but may be found in Part II. Chapter II.

Guideline 1: Guidelines Applicable to All Uses

The first set of guidelines includes a list of general factors to be assessed in the permitting process for all these proposed uses. Reference

must be made to these factors when applying the more specific use or activity guidelines. Guideline 1 specifies both the elements to be weighed in the consideration of permit applications and those significant adverse impacts which are to be minimized in carrying out the activity. This guideline also incorporates conformance with applicable water and air quality laws into the program.

Guideline 1.8 applies to all of the other guidelines in which the modifier "maximum extent practicable" occurs. The guideline provides the methodology for balancing conservation and development needs and the process by which permit conditions are determined to minimize adverse impacts. This process is discussed in detail in Chapter II.

Uses permitted by Guideline 1.8 will result in greater adverse environmental impacts. However, the adverse impacts will be minimized for each project permitted under this rule by ensuring conformance to the modified standard within the limits of economic, social and technical feasibility.

Positive Impacts of Guideline 1

1. Provides for consideration of feasible alternative sites or methods in the development of uses and activities.
2. Provides for consideration of important national, regional, and state interests in the development of resources and economic benefits from siting of facilities.
3. Provides for minimizing significant cumulative adverse impacts of coastal activities.
4. Requires compliance with all applicable air and water quality laws.
5. Provides a methodology for systematically balancing conservation and development needs and determining those permit conditions which will minimize or offset the adverse impacts of permitted uses.
6. Provides for multiple uses of the coastal zone including continued economic development.
7. Describes those adverse social, environmental, and economic impacts which are to be avoided or minimized by the program.
8. Provides for maintenance of flow characteristics and the quality of coastal waters and wetlands.
9. Provides for maintenance of swamps, marshes, bayous, streams, tidal passes, inshore waters, dunes, and barrier islands - with resultant positive impacts on renewable wildlife and fishery resources, and reduced loss of land to subsidence and erosional processes.

Potential Negative Impacts of Guideline 1

1. Increased planning and engineering costs of urban and industrial development.
2. Guideline 1.8 provides, under certain conditions, for the granting of permits for uses which would otherwise not meet the requirements or guideline standards modified by the term "maximum extent practicable". Although uses permitted under Guideline 1.8 will provide benefits to society in an economic and social sense, uses so permitted will result in higher adverse environmental impacts of the type associated with the use and which are addressed by specific guideline standards. These impacts must, however, be minimized within the limits of technical, economic, social, environmental and legal feasibility.

Other positive and negative impacts are traced in greater detail for the guidelines for specific uses and activities and should also be related to Guideline 1.

Guideline 2: Guidelines for Levees

The guideline for levee activity incorporates the principal of avoiding leveeing in wetlands to the maximum extent practicable. Also included are a set of procedures whereby the adverse effects of levees can be minimized.

Positive Impacts of Guideline 2

1. Reduced loss of the productivity of habitats by minimizing the leveeing of unmodified or biologically productive wetlands and by discouraging the leveeing of wetland areas for purposes of developing or changing the use of the area.
2. Provision for the minimizing of adverse impacts of hurricane and flood protection levee construction by stipulating that such levees be located at the nonwetland/wetland interface or landward to the maximum extent practicable and further, that such levees be designed, built and operated to maintain to the maximum extent practicable natural hydrologic patterns and the interchange of water, beneficial nutrients and aquatic organisms between adjacent wetlands and the enclosed areas.
3. Reduction in loss of productivity of wildlife habitat and commercial fishery resources, by avoiding the segmentation of wetland areas and by minimizing the impacts of flood protection and impoundment levees.

Potential Negative Impacts of Guidelines 2

Although the predictable negative outcomes of permitted levee activities will be minimized by the guideline's requirements related to the planning.

siting, location, and construction methods of levees, negative impacts as follows may result.

1. Although Guideline 2 will minimize such changes, the permitting of needed development levees in wetland areas under Guideline 1.8 may result in the reduction in the natural productivity of fish and wildlife through reduction in the amount and quality of habitat, and a reduction in the flow of nutrients and detrital material.
2. Restricted water movement in coastal estuarine systems due to leveeing.
3. Adverse economic impacts of diminished urban development in areas lacking suitable non-wetland sites for development.

Guideline 3: Guidelines for Linear Facilities

The guidelines for linear facilities address such uses as channels, canals and pipelines. The primary intent is to minimize the impact associated with such uses. The guidelines provide for planning and design means to reduce the adverse impacts of permitted linear uses.

Positive Impacts of Guideline 3

1. Requires that linear facilities involving dredging shall not traverse or adversely affect any barrier island, and thereby maintains protection from hurricane surges and marine erosion, with positive impacts on wildlife habitat and recreational opportunities, and other beneficial environmental and economic impacts of barrier islands.
2. The adverse environmental impacts of dredging activities in coastal areas will be minimized by requiring that if a beach, tidal pass, reef or other natural gulf shoreline must be traversed for a non-navigation canal, they shall be restored at least to their natural condition immediately upon completion of construction, and tidal passes shall not be permanently widened or deepened except when necessary to conduct the uses, and the best available restoration techniques which improve the traversed area's ability to serve as a shoreline shall be used.
3. Reduction in loss of highly productive wetland and estuarine areas, and other resource areas, by minimizing the impacts of dredging and by making multiple use of existing corridors.
4. Reduction of rate of saltwater intrusion, and maintenance of hydrology and water balance by providing for the plugging of connections between fresher and more saline areas by using other best practical techniques to minimize intrusion.
5. Retarded introduction of pollutants, agricultural chemicals, and toxic substances.

Potential Negative Impacts of Guideline 3

The negative impacts of linear facilities are minimized by requirements relating to size or length, location, site restoration, multiple uses of sites, and other conditions. Nevertheless, negative impacts may occur, although of lesser magnitude than would have been the case in the absence of the guideline.

1. Some loss of wetlands wherever linear facilities are permitted under the compliance determination of guideline 1.8.
2. The control of linear facilities may have local adverse economic effects through limiting navigational access (for example, connecting the Gulf and those wetland areas inland from the coast).
3. Increased economic costs of construction site access.

Guideline 4: Guidelines for Dredged Spoil Deposition

Creative management of dredged spoil deposition is provided as a means of reducing shoreline erosion; restoring existing barrier islands and developing artificial barrier islands in lakes and estuaries; reducing saltwater intrusion; and increasing the existing rate of accretion in present deltaic areas.

Positive Impacts of Guideline 4

1. Specifies that spoil is to be used so as to improve productivity and to create new habitat or to compensate for the environmental damages of other activities.
2. Minimizes creation of new disposal sites by encouraging the use of existing or upland sites.
3. Avoiding the disruption of water movement, flow, circulation and quality of natural drainage patterns, and the consequent adverse changes in existing plant and animal communities.
4. Allows the disposal of spoil on marshes, oyster reefs and submersed vegetation only in areas which meet the compliance criteria of guideline 1.8.

Potential Negative Impacts of Guideline 4

The overall environmental impact of the guidelines for dredged spoil deposition is expected to be positive. Nevertheless, adverse impacts may result from the deposition process. These impacts will be minimized by, for example, the guideline's provision for the use of techniques to reduce turbidity and to retain the spoil at the site.

1. The adverse impacts of dredged spoil deposition will be minimized but any deposition on water bottoms will temporarily result in an overall lowering of water quality, smothering of bottom habitats, killing of water organisms and possibly increase concentrations of toxins.

2. The loss of wetland habitat and resulting impacts on marine fishery resources which will result whenever spoil disposal on wetlands and other fragile resources is allowed under guideline 1.8.

Guideline 5: Guidelines for Shoreline Modification

Shoreline modifications are to be designed so as to provide the best practical methods of shoreline protection, to maintain existing water patterns and foster public access, fishing and recreational uses.

Positive Impacts of Guideline 5

1. Maximizes use of natural to non-structural methods of shoreline stabilization thus maintaining habitat and water circulation.
2. Requiring that such structures shall be lighted or marked in accordance with U.S. Coast Guard regulations and not interfere with navigation, and should foster fishing and other recreational opportunities and public access minimizes creation of safety hazards and increases public recreational and fishing outlets.
3. Minimization of adverse environmental impacts by stipulating that shoreline modification structures shall be built using best practical materials and techniques to avoid the introduction of pollutants and toxic substances into coastal waters.
4. Reduced loss of critical habitats by providing that marinas, and similar commercial and recreational developments should not be located so as to result in adverse impacts on open productive oyster beds, or submersed grass beds.

Potential Negative Impacts of Guideline 5

Engineering and siting requirements, of guideline 5, are intended to offset the predictable negative impacts. Nevertheless, negative impacts may occur. Although of lesser magnitude than would be expected without the guideline.

1. Cumulative impacts on coastal waters and wetlands, including the loss of wetland habitat and altered vegetation, resulting from altered water flow patterns and reduced flushing actions.
2. Permitted activities can have serious adverse cumulative impact through erosion, and increased water pollution, with the effects reflected in vegetational changes and habitat loss.

Guideline 6: Guidelines for Surface Alterations

Guidelines for surface alterations provide for industrial, commercial, urban, residential, and recreational development by the intensive use of land where the public costs of foundations and infrastructure may be minimized and where the public safety may be ensured.

Positive Impacts of Guideline 6

1. Reduction in loss of critical areas by providing that wetland areas should not be drained or filled, that any approved drain or fill project be designed and constructed using best practical techniques to minimize present and future property damage and adverse environmental impacts, and that surface alterations should be located away from critical wildlife areas and vegetation areas.
2. Adverse impacts on air and water quality are minimized by requiring that surface alteration sites and facilities be designed, constructed, and operated using the best practical techniques to prevent the release of pollutants or toxic substances into the environment.
3. Long term impacts of uses are minimized by the requirement for restoration which specifies that areas modified by surface alteration activities shall to the maximum extent practicable be revegetated, refilled, cleaned and restored to their predevelopment condition upon termination of the use.
4. Reduced costs of commercial, industrial and residential construction, by facilitating development where foundations are most stable and the likelihood of storms and other natural hazards is minimized.
5. Economic impacts on encouraging urban and industrial development on lands suitable for development, e.g., lands five feet above mean sea level.
6. Economic and social benefits stemming from the priorities accorded coastal water dependent uses.

Potential Negative Impacts of Guideline 6

The adverse environmental impacts of the guidelines for surface alterations are minimized by providing for developments at sites where the impact is least, and by providing for the restoration of sites after activities cease. Nevertheless, negative social and environmental impacts are predictable, although of lesser consequence than would have been the case in the absence of the guideline.

1. Adverse environmental impacts on natural systems from surface mining and shell dredging.
2. Reduction in land areas available for developments may reduce economic growth in affected localities and increase costs of development.

Guideline 7: Guidelines for Hydrologic and Sediment Transport Modifications

The initiation of new cycles of marsh building and the offsetting of saltwater intrusion are the planned outcomes of controlled diversion of sediment laden water. Other sections of the guideline require the avoidance of deposition in navigational and other critical areas.

Positive Impacts of Guideline 7

1. Reduction of undesirable wetland habitat change and land loss is encourage through the diversion of freshwater and sediments because such activities offset saltwater intrusion and introduce nutrients into wetlands. Diversions are to incorporate a plan for monitoring and reduction and/or amelioration of the effects of pollutants present in the freshwater source.
2. Starting of new cycles of delta growth and other land building when part of an approved plan.
3. Maintenance of fish, mollusk, and wildlife productivity by requiring that water control structures permit continued tidal exchange and migration of aquatic organisms.
4. Increased habitat resulting from marsh building due to freshwater and sediment diversion..

Potential Negative Impacts of Guideline 7

The overall environmental impact of the guidelines for hydrologic and sediment transport modifications is expected to be positive as they relate to plans for fresh water diversion and enhanced delta building. However, adverse impacts may be expected because of pollutants in the freshwater source or negative consequences of water control structures. The provisions of the guidelines will minimize the sum of such predictable adverse impacts.

1. Weirs, locks, spillways, and similar structures, may result in a net adverse modification of existing hydrologic patterns.
2. Disruption of migration routes of aquatic organisms.
3. Introduction of pollutants from freshwater sources into outfall areas.
4. Siltation of areas in outfall areas with attendant losses.
5. Reduction in habitat available for marine species.

Guideline 8: Guidelines for Disposal of Wastes

The guidelines for the disposal of wastes direct that waste disposal in the wetlands be avoided unless no practical alternative exists. When wastes are disposed of in the wetlands, the methods to be used under the provisions of the guidelines will insure that adverse impacts are minimized.

Positive Impacts of Guideline 8

1. Reduction of loss of wetland habitats by the discouraging the siting waste facilities in wetlands, and by avoiding pollution from such facilities.

2. Protection of human health from the consequences of lowering of air and water quality.
3. Encouragement of beneficial overland flow treatment processes.
4. Assuring that water and marsh management projects result in overall increase in productivity.

Potential Negative Impacts of Guideline 8

The engineering and siting requirements for the transportation, storage, and disposal of wastes are intended to offset the predictable negative impacts of such activities in wetland areas. Negative impacts may still occur but will be of lesser magnitude than would have occurred in the absence of the guidelines.

1. An increase in the costs of waste disposal may occur due to requirements to avoid wetlands and to utilize more stringent protective measures if wastes are to be disposed in the wetland area.
2. The discouragement of waste disposal in wetlands may cause such activities to be shifted to other areas which are also not well-suited for the disposal of wastes.

Guideline 9: Guidelines for Uses that Result in the Alteration of Waters Draining into Coastal Waters

The guideline provides for the protection of coastal water quality from runoff into the coastal areas.

Positive Impacts of Guideline 9

1. Maintenance of water quality by minimizing the adverse impacts of agricultural, upland, and urban drainage projects.
2. Reduction in the adverse effects of eutrophication on the productivity of fisheries, shellfish beds, wildlife habitats and recreational activities.
3. Protection of human health from the build up of toxins in the food web and from other impacts of the pollution of coastal waters.
4. Maintenance of natural water patterns, quantity, quality and rate of flow.

Potential Negative Impacts of Guideline 9

The management of run-off is intended to offset the predictable negative environmental impacts on coastal waters. These guidelines will serve to minimize the adverse impacts but such negative impacts may still occur.

1. Loss of development through maintenance of land uses that retain flood volumes, and through preventing opening of new drainage canals which connect drained land and open water bodies.
2. Economic impacts of restrictions on urban and industrial development, including the increased costs of urban development to maintain existing patterns of upland water systems.

Guideline 10: Guidelines for Oil and Gas

Oil and gas guidelines provide for the continued development of the resources along with mechanisms to minimize adverse impacts on other coastal uses.

Positive Impacts of Guideline 10

1. Reduction of the long term impact of oil and gas activities through clean up requirements and reduction of oil spills and run-off from mineral activities.
2. Economic impacts of permitting continued petrochemical and other industrial development.
3. Minimization of adverse environmental impacts by the reduction of oil and gas activities in critical wetland habitats and of changes in natural hydrological patterns.
4. Minimization of the dredging impacts of oil and gas activities through such practices as multiple use of canals and directional drilling.
5. Reduction of underwater hazards for navigation and fishing.

Potential Negative Impacts of Guideline 10

The guidelines for oil and gas activities include a number of technological and siting stipulations which have the effect of minimizing the adverse environmental impacts of such activities. Those adverse impacts which persist will thereby be of lesser consequence than would have been expected but for the guideline.

1. Increased costs of mineral exploration, oil well site access, and similar factors in resource development.
2. Pollutants carried into adjacent systems from oil and gas sites through runoff and spills.
3. Loss of wildlife and aquatic habitats due to effects of oil and gas development.

C. POSSIBLE CONFLICTS BETWEEN PROPOSED ACTION AND THE OBJECTIVES OF FEDERAL, REGIONAL, STATE AND LOCAL LAND USE PLANS, POLICIES, AND CONTROLS FOR THE AREA CONCERNED

Louisiana has a variety of land and water use programs which affect the coastal area. Some parish governments have comprehensive plans and ordinances. There are also multi-parish plans developed by regional planning commissions. Most coastal parishes are presently revising these plans to incorporate a coastal element which is consistent with the policies, guidelines and standards of the program and all regional planning bodies have been involved with the LCRP development process.

State agencies with plans and programs affecting the coastal area will, in the future, have to assure that they are implemented in accordance with the procedures set forth in the LCRP. State planning, management and regulatory programs are required to conform to the policies and standards of the program. In addition, the MOU's with the appropriate agencies will provide a process for coordination of planning and permitting activities in the coastal area.

Activities in conformance with applicable water and air quality laws, and those other standards and regulations which have been incorporated into the LCRP, will be deemed in conformance with the air and water quality elements of the program except to the extent that the guidelines require higher standards.

D. MEANS TO MITIGATE ADVERSE IMPACTS

The LCRP seeks to provide a balance between development and environmental protection. In a broad sense, all of the guidelines discussed above have been developed not to preclude development, but with the intention of minimizing the adverse impacts that development has on the natural resources of the coastal zone. Several guidelines, however, are of special interest with regard to the mitigation of impacts. Guideline 1.6(o) and 1.7(j) require an assessment of cumulative and secondary impacts by the decision maker. Guidelines 3.5, 6.1 and 6.2 seek to mitigate potential impacts by guiding development to existing corridors, and other areas suitable for development.

It is recognized, however, that the implementation of the guidelines through the coastal use permit program will not entirely prevent future loss of coastal resources and habitats such as wetlands and productive estuarine areas. Such losses can be expected to continue, although at a reduced rate, due to the cumulative effects of smaller projects, the siting of facilities meeting the criteria of guideline 1.8 and natural processes such as erosion and subsidence.

The LCRP will seek to offset these losses through the development of a number of enhancement programs discussed in Chapter V. These include the development of programs, plans and specific projects for barrier island protection, freshwater diversion and accelerated delta building.

The management of barrier islands will reduce the impacts of current rapid changes resulting from coastal erosion, subsidence, canal dredging

and the alteration of the natural sediment cycle of the Mississippi and other rivers. Continuation of present processes would rapidly diminish the barrier islands value as protection against hurricanes and saltwater intrusion and as wildlife habitats and recreation areas. The creation of man made barrier islands on the margins of large lakes and bays will also have beneficial environmental impacts in reducing erosion and increasing the diversity of habitats and recreational opportunities. The environmental losses due to subsidence, erosion, dredging and other causes of land losses, will be further offset by freshwater diversion and the creative use of sediments. Freshwater diversion will result in renewed marsh building and will reduce saltwater intrusion and the resulting erosion caused by the deterioration of fresh or brackish vegetation. Maximum use will be made of sediment in natural deltaic processes to achieve land accretion to the greatest possible extent (see Chapter V for a more complete discussion of these proposed programs.)

The LCRP will also seek to cooperate with federal agencies in the development of effective programs for monitoring the rate of change in coastal resources both in terms of quantity and quality (see Chapter VII). Such monitoring programs will provide the state with medium and long term information as to the environmental impact of the program in general, and the success of the enhancement programs discussed above. While it can not be expected that such programs will significantly offset the loss of wetlands and other resources immediately, significant mitigative effects should be noted in two to five years.

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DESIGNATION: Final Environmental Impact Statement

TITLE: Proposed Federal Approval of the Louisiana Coastal Resources Program

ABSTRACT: The State of Louisiana has submitted its Coastal Resources Program to the Office of Coastal Zone Management for approval. Approval would allow program administrative grants to be awarded to the state, and require that federal actions be consistent with the program. This document includes a copy of the program (Part II) which is a comprehensive management program for coastal land and water use activities. It consists of numerous policies on diverse management issues which are enforced by various state laws, and is the culmination of several years of program development.

Approval and implementation of the program will enhance governance of the state's coastal land and water areas and uses according to the coastal policies and standards. The effect of these policies is to condition, restrict or prohibit various uses in parts of the coastal zone, while encouraging development and other uses in other parts. This program will improve decision-making processes for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness of coastal resources. The program will result in some short-term economic impacts on coastal users but will lead to increased long-term protection of the state's coastal resources.

Federal alternatives include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met. The state could modify parts of the program or withdraw their application for federal approval if either of the above federal alternatives result from circulation of this document.

APPLICANT: Louisiana Department of Natural Resources

LEAD AGENCY: U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management

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HCRS	Heritage Conservation and Recreation Service U. S. Department of Interior
HUD	U.S. Department of Housing and Urban Development
LACCMR	Louisiana Advisory Commission on Coastal and Marine Resources
LEAA	Louisiana Environmental Affairs Act
LCC	Louisiana Coastal Commission
LCRP	Louisiana Coastal Resources Program
LOOP	Louisiana Offshore Oil Port
LOTA, LOTA/DOTD	Louisiana Offshore Terminal Authority, Louisiana Department of Transportation and Development
LSMA	Louisiana Special Management Areas
MOU	Memorandum of Understanding
NASA	National Aeronautics and Space Administration
NEPA	National Environmental Policy Act
NOAA	National Oceanic and Atmospheric Administration
NOBRMA	New Orleans-Baton Rouge Metropolitan Area
NMFS	National Marine Fisheries Service, national Oceanic and Atmospheric Administration
OA	Office of Aviation, Louisiana Department of Transportation and Development
OC, OC/DNR	Office of Conservation, Louisiana Department of Natural Resources
OCS	Outer Continental Shelf
OCZM	National Oceanic and Atmospheric Administration's Office of Coastal Zone Management
OEA, OEA/DNR	Office of Environmental Affairs, Louisiana Department of Natural Resources
OMR, OMR/DNR	Office of Mineral Resources, Louisiana Department of Natural Resources

OPW	Office of Public Works, Louisiana Department of Transportation and Development
SCC, SCC/DWF	Stream Control Commission, Louisiana Department of Wildlife and Fisheries
SWFRC	Southwest Federal Commission, Louisiana Department of Wildlife and Fisheries
USF&W	U. S. Fish and Wildlife Service, U.S. Department of Interior

DISTRIBUTION: Comments were requested on the DEIS from the following federal, state and local agencies and other parties:

Federal Agencies

- *Advisory Council on Historic Preservation
- *Department of Agriculture
- *Department of the Army, Corps of Engineers
- *Department of Commerce
- *Department of Defense
- *Department of Energy
 - Department of Health, Education and Welfare
- *Department of Housing and Urban Development
- *Department of the Interior
 - Department of Justice
 - Department of Labor
- *Department of Transportation
 - U.S. Coast Guard
- *Environmental Protection Agency
 - Federal Emergency Management
- *Federal Energy Regulatory Commission
- *General Services Administration
 - Marine Mammal Commission
 - Nuclear Regulatory Commission

National Interest Groups

- A.M.E.R.I.C.A.N.
- AFL-CIO
- *Amerada Hess Corporation
- American Association of Port Authorities
- American Bar Association
- American Bureau of Shipping
- American Farm Bureau Federation
- American Fisheries Society
- American Forest Institute
- American Gas Association
- American Hotel and Motel Association
- American Industrial Development Council
- American Institute of Architects
- American Institute of Merchant Shipping
- American Littoral Society
- American Mining Congress
- American Oceanic Organization
- American Petroleum Institute
- American Planners Association
- American Shore and Beach Preservation Association
- American Society of Civil Engineers
- American Society of Landscape Architects, Inc.
- American Water Resources Association
- American Waterways Operators
- *Amoco Production Company
- Ashland Oil, Inc.

National Interest Groups (Continued)

Associated General Contractors of America
Associated of Oil Pipe Lines
*Atlantic Richfield Company
Atlantic State Marine Fisheries Commission
Atomic Industrial Forum
Barrier Islands Coalition
Boating Industry Association
Center for Law and Social Policy
Center for Natural Areas
Center for Urban Affairs
Center for Urban and Regional Resources
Chamber of Commerce of the United States
*Chevron U.S.A., Inc.
*Cities Service Company
City Service Oil Company
Coastal States Organization
*Conoco, Inc.
Conservation Foundation
Continental Oil Company
Council of State Governments
Council of State Planning Agencies
The Cousteau Society
Earth Metabolic Design Laboratories, inc.
Edison Electric Institute
El Paso Natural Gas Co.
Environmental Policy Center
*Environmental Defense Fund, Inc.
Environmental Law Institute
*EXXON Company, U.S.A.
Friends of the Earth
*Getty Oil Company
Great Lakes Basin Commission
Gulf Energy and Minerals, U.S.
Gulf Oil Company
Gulf Oil Refining Company
Gulf South Atlantic Fisheries Development Foundation
Independent Petroleum Association of America
Industrial Union of Marine and Shipbuilding Workers of America
Institute for the Human Environment
Institute for Marine Studies
Interstate Natural Gas Association of American
Izaak Walton League
Lake Michigan Federation
League of Conservation Voters
*League of Women Voters Education Fund
Marathon Oil Company
Marine Technology Society
Mobil Oil Corporation
Mobil Exploration and Producing, Inc.
Murphy Oil Company
National Academy of Engineering
National Association of Conservation Districts

National Interest Groups (Continued)

National Association of Counties
National Association of Dredging Contractors
National Association of Electric Companies
National Association of Engine and Boat Manufacturers
National Association of Home Builders
National Association of Regional Councils
National Association of State Boating Law Administrators
National Association of State Park Directors
National Audubon Society
National Boating Federation
National Canners Association
National Coalition for Marine Conservation, Inc.
National Commission on Marina Policy
National Conference of State Legislators
National Environmental Development Association
National Farmers Union
National Federation of Fisherman
National Fisheries Institute
National Forest Products Association
National Governors Association
National League of Cities
National Ocean Industries Association
National Parks and Conservation Association
National Petroleum Council
National Petroleum Refiners Association
National Realty Committee
National Recreation and Park Association
National Research Council
National Science Foundation
National Science Teachers Association
National Shrimp Congress
National Society of Professional Engineers
National Wildlife Federation
National Waterways Conference
Natural Gas Pipeline Company of America
Natural Resources Defense Council
The Nature Conservancy
Nautilus Press
New England River Basin Commission
North Atlantic Ports Association
*Outboard Marine Corporation
*Phillips Petroleum Company
Resources for the Future
Rice University Center for Community Design and Development
Shell Oil Company
*Shellfish Institute of North America
Shipbuilders Council of America
Skelly Oil Company
Society of Industrial Realtors

National Interest Groups (Continued)

Society of Real Estate Appraisers
Soil Conservation Society of America
Southern California Gas Company
Sport Fishing Institute
Standard Oil Company of Ohio
*Sun Company, Inc.
Tenneco Oil Company
Tennessee Gas Pipeline
Texaco, Inc.
Texas A & M University
*Texas Eastern Transmission Corp.
*Texas Pacific Oil Company, Inc.
*Transco Pacific Oil Company, Inc.
United Brotherhood of Carpenters and Joiners of America
Union Oil Company of California
Urban Research and Development Association, Inc.
U.S. Conference of Mayors
U.S. Power Squadrons
Virginia Marine Resources Commission
Water pollution Control Federation
Water Transport Association
Western Oil and Gas Association
Wildlife Management Institute
The Wildlife Society
World Dredging Association

State and Local Agencies

Assumption Parish Police Jury
Board of Commissioners of the Port of Lake Charles
Board of Commissioners of the Port of New Orleans
Calcasieu Parish CZM Advisory Committee
Calcasieu Parish Police Jury
Cameron Parish CZM Advisory Committee
Cameron Parish Policy Jury
Capital Region Planning Commission
City of Abbeville
City of Cameron
City of Franklin
City of Houma
City of Lafayette
City of LaPlace
City of Morgan City
City of New Iberia
*City of New Orleans
City of Slidell
City of Thibodaux
Evangeline Economic Development Commission
House Committee on Natural Resources
Iberia Parish CZM Advisory Committee

State and Local Agencies (continued)

Iberia Parish Police Jury
Imperial Calcasieu Regional Planning and Development Commission
Jefferson Parish CZM Advisory Committee
*Lafourche Parish CZM Advisory Committee
Lafourche Parish Police Jury
*Lafourche -Terrebonne Soil and Water Conservation District
Livingston Parish CZM Advisory Committee
Livingston Parish Police Jury
Louisiana Attorney General's Office
Louisiana Coastal Commission
Louisiana Department of Agriculture
Louisiana Department of Culture, Recreation and Tourism
Louisiana Department of Health and Human Resources
Louisiana Department of Justice
*Louisiana Department of Natural Resources
Louisiana Department of Public Service
*Louisiana Department of Transportation and Development
Offshore Terminal Authority
Louisiana Department of Wildlife and Fisheries
Louisiana Legislative Council
Louisiana Soil and Water Conservation Committee
Louisiana State Parks and Recreation Commission
Louisiana State Planning Office
Louisiana State University
Louisiana State University Center for Wetland Resource
Louisiana State University Marine Extension Service
Louisiana Stream Control Commission
New Orleans City Planning Commission
Nicholls State University
Plaquemines Parish Commission Council
Regional Planning Commission for Jefferson, Orleans, St. Bernard and St. Tammany Parishes
St. Bernard Parish CZM Advisory Committee
*St. Bernard Parish Planning Commission
St. Bernard Parish Police Jury
St. Charles Parish CZM Advisory Committee
St. Charles Parish Police Jury
St. James Parish CZM Advisory Committee
St. James Parish Police Jury
St. John the Baptist Parish CZM Advisory Committee
St. John the Baptist Parish Police Jury
St. Mary Parish CZM Advisory Committee
St. Mary Parish Police Jury
St. Tammany Parish CZM Advisory Committee
St. Tammany Parish Planning Commission
St. Tammany Parish Police Jury
Senate Committee on Natural Resources
*South Central Planning and Development Commission
South Louisiana Port Commission
Tangipahoa Parish CZM Advisory Committee
Tangipahoa Parish Police Jury

State and Local Agencies (continued)

Terrebonne Parish CZM Advisory Committee
*Terrebonne Parish Police Jury
University of New Orleans
University of Southwest Louisiana
*Vermilion Parish CZM Advisory Committee
*Vermilion Parish Police Jury

State and Local Interest Groups

AFL-CIO
American Lung Association
American Rice Growers Association
American Shrimp Cannery Association
American Sugar Cane League
Association of General Contractors of Louisiana
Baton Rouge Audubon Society
Burk and Associates, Inc.
Cactus Clyde Productions
Central Louisiana Electric Company
*Chamber of Commerce of New Orleans and the River Region
*Citizens for Safe Energy
Clio Sportsman's League
Coastal Environments, inc.
Council for A Better Louisiana
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*Delta Chapter-Sierra Club
*Ecology Center of Louisiana
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*Louisian Wildlife Federation
*Mid-Continent Oil and Gas Association
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New Orleans Public Service, Inc.
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*RESTORE
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Senator Russell Long

APPENDIX a
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Appendix b
Act 351, AS AMENDED IN 1979, 1980

Regular Session, 1978

SENATE BILL NO. 930

BY MR. DUVAL, Chairman of the Senate Committee on Natural Resources, AND
REPRESENTATIVES TAUZIN AND ULLO(Substitute for Senate Bill No. 302 by Mr.
Duval)

AN ACT

To amend and reenact Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, consisting of Sections 213.1 through 213.21, both inclusive, to provide with respect to coastal zone management; to provide for a short title; to provide for legislative findings and policy; to provide definitions; to provide for boundaries; to provide for the Coastal Management Section, its duties and responsibilities; to provide for the Louisiana Coastal Commission, its membership, duties, and responsibilities; to provide for management programs at the state and local level and rules and procedures applicable thereto; to provide for special areas; to provide for permits and permit procedures; to provide for the effect on existing authorities; to provide for intergovernmental coordination and consistency; to provide for enforcement injunctions, penalties, and fines; to provide for legislative review of rules, to provide for the effect on title; to provide for the effective date of this Act; and to provide otherwise both generally and specifically with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, consisting of Sections 213.1 through 213.21, is hereby amended and reenacted to read as follows:

PART II. LOUISIANA COASTAL ZONE MANAGEMENT PROGRAM

§213.1 Short Title

This Part shall be known and may be cited as the State and Local Coastal Resources Management Act of 1978.

§213.2 Declaration of public policy

The legislature declares that it is the public policy of the state:

(1) To protect, develop, and where feasible, restore or enhance the resources of the state's coastal zone.

(2)(a) To assure that, to the maximum extent feasible, constitutional and statutory authorities affecting uses of the coastal zone should be included within the Louisiana Coastal Management Program and that guidelines and regulations adopted pursuant thereto shall not be interpreted to allow expansion of governmental authority beyond those laws.

(b) To express certain regulatory and non-regulatory policies for the coastal zone management program. Regulatory policies are to form a basis for administrative decisions to approve or disapprove activities only to the extent that such policies are contained in the statutes of this state or regulations duly adopted and promulgated pursuant thereto. They are to be applicable to each governmental body only to the extent each governmental body has jurisdiction and authority to enforce such policies. Other policies are nonregulatory. They are included in the Coastal Zone Management Plan to help set out priorities in administrative decisions and to inform the public and decision makers of a coherent state framework, but such policies are not binding on private parties.

(3) To support and encourage multiple use of coastal resources consistent with the maintenance and enhancement of renewable resource management and productivity, the need to provide for adequate economic growth and development and the minimization of adverse effects of one resource use upon another, and without imposing any undue restriction on any user.

(4) To employ procedures and practices that resolve conflicts among competing uses within the coastal zone in accordance with the purpose of this Part and simplify administrative procedures.

(5) To develop and implement a coastal resources management program which is based on consideration of our resources, the environment, the needs of the people of the state, the nation, and of state and local government.

(6) To enhance opportunities for the use and enjoyment of the recreational values of the coastal zone.

(7) To develop and implement a reasonable and equitable coastal resources management program with sufficient expertise, technical proficiency, and legal authority to enable Louisiana to determine the future course of development and conservation of the coastal zone and to ensure that state and local governments have the primary authority for managing coastal resources.

§213.3. Definitions

(1) "Administrator" shall mean the administrator of the Coastal Management Section within the Louisiana Department of Transportation and Development.

(2) "Commission" shall mean the Louisiana Coastal Commission as provided herein.

(3) "Coastal waters" shall mean bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone which have measurable seawater content (under normal weather conditions over a period of years).

(4) "Coastal Zone" shall mean the coastal waters and adjacent shorelands within the boundaries of the coastal zone established in Section 213.4, which are strongly influenced by each other, and in proximity to the shorelines, and uses of which have a direct and significant impact on coastal waters.

(5) "Local government" shall mean the governmental body having general jurisdiction and operating at the parish level.

(6) "Person" shall mean any individual, partnership, association, trust, corporation, public agency or authority, or state or local government body.

(7) "Secretary" shall mean the secretary of the Department of Transportation and Development.

(8) "Use" shall mean any use or activity within the coastal zone which has a direct and significant impact on coastal waters.

(9) "Fastlands" are lands surrounded by publicly owned, maintained, or otherwise validly existing levees, or natural formations, as of the effective date of this Part of as may be lawfully constructed in the future, which levees or natural formations would normally prevent activities, not to include the pumping of water for drainage purposes, within the surrounded area from having direct and significant impacts on coastal waters.

(10) "Guidelines" means those rules and regulations adopted pursuant to Section 213.8.

(11) "Public hearing", wherever required in this Part, shall mean a hearing announced to the public at least 30 days in advance, and at which all interested persons shall be afforded a reasonable opportunity to submit data, views, or arguments, orally or in writing. At the time of the announcement of the public hearings all materials pertinent to the hearing, including document, studies, and other data, in the possession of the party calling the hearing, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the party which conducted the hearing.

(12) "Coastal use permit: shall mean the permits required by Section 213.11 of this Part and shall not mean or refer to, and shall be in addition to, any other permit or approval required or established pursuant to any other constitutional provision or statute.

§213.4. Coastal zone boundary.

A. The seaward boundary of the coastal zone of Louisiana shall be the seaward limit of the state of Louisiana as determined by law.

B. The interstate boundaries of the coastal zone shall be the boundary separating Louisiana from Texas on the west and the boundary separating Louisiana from Mississippi on the east, as each is determined by law.

C. The inland boundary of the coastal zone shall generally be a line beginning at the intersection of the northern line of the Intracoastal Canal and the Louisiana/Texas boundary, thence proceeding easterly along the northern bank of the Intracoastal Canal to Highway 82, thence northeasterly along Highway 92 to Highway 690, thence easterly along Highway 690 to Highway 330, thence northeasterly along Highway 330 to Highway 14, thence northeasterly along Highway 14 to Highway 90, thence southeasterly along Highway 90 to Highway 85, thence northeasterly along Highway 85 to Highway 90, thence easterly along Highway 90 to the intersection of Highway 90 and the East Atchafalaya Basin Protection Levee thence northerly along the East Atchafalaya Basin Protection Levee to the intersection of the boundary which separates the parishes of St. Martin and Iberia, thence easterly along the boundary separating Iberia parish from St. Martin Parish, to the intersection of the St. Martin Parish boundary with the boundary separating St. Martin Parish from Assumption Parish, thence southerly along the boundary separating St. Martin Parish from Assumption Parish to the intersection of the boundary with the northern shore of Lake Palourde, thence westerly along the northern shore of Lake Palourde to the intersection of the shore with the northern boundary of the city of Morgan City, thence following the boundary of the corporate limits of the city of Morgan City to where it intersects with the northern bank of the Gulf Intracoastal Waterway, thence along the northern bank of the Gulf Intracoastal Waterway to the vicinity of the Bayou du Large Ridge, thence proceeding southerly along the western edge of the Bayou du Large Ridge to the intersection of the Falgout Canal, thence proceeding easterly along the north bank of the Falgout Canal to the eastern edge of the Bayou du Large Ridge, thence proceeding northerly along the eastern edge of the Bayou du Large Ridge to the vicinity of Crozier, thence proceeding easterly to the western edge of the Grand Caillou Ridge, thence proceeding easterly to the western edge of the Grand Caillou Ridge, thence proceeding southerly along the western edge of the Grand Caillou Ridge to the vicinity of Dulac, thence proceeding easterly to the eastern edge of the Grand Caillou Ridge, thence proceeding northerly along the eastern edge of the Grand Caillou Ridge to the northern bank of the St. Louis Canal, thence proceeding easterly along the northern bank of the St. Louis Canal to the western edge of the Petit Caillou Ridge, thence proceeding southerly along the western edge of the Petit Caillou Ridge to the vicinity of Chauvin, thence proceeding easterly to Highway 55, thence proceeding northerly along Highway 55 to its intersection with Highway 665, thence easterly along Highway 665 to Bayou Pointe au Chien, thence northerly along Bayou Pointe au Chien to Highway 55, thence northerly along Highway 55 to Highway 24, thence easterly along Highway 24 to Highway 308, thence northerly along Highway 308 to a point of intersection with the northern bank of the Gulf Intracoastal Waterway, thence northeasterly along the northern bank of the Gulf Intracoastal Waterway to a point of intersection with Canal Tisamond Foret, thence proceeding northeasterly

along the northern bank of the Canal Tisamond Foret to a point of intersection with a line one hundred yards inland from the mean high tide line of Lake Salvador, thence proceeding northerly along the line one hundred yards inland from the mean high tide of Lake Salvador to a point of intersection with a line one hundred yards from the mean high water line of Bayou Des Allemands, thence proceeding northwesterly along the line one hundred yards inland from the western mean high water line of Bayou Des Allemands and the Petit Lac Des Allemands to a point of intersection with the boundary separating Wards 7 and 8 of Lafourche Parish, thence proceeding southwesterly along said boundary to a point of intersection with the Midway Canal, thence proceeding northwesterly along the Midway Canal, and in a northwesterly straight line prolongation of said canal, to a point of intersection with U.S. Highway 90, thence proceeding northeasterly along U.S. Highway 90 to a point of intersection with the line one hundred yards from the western mean high water line of Baie Des Deux Chenes, thence proceeding northwesterly along said line one hundred yards from the western mean high water line of Baie Des Deux Chenes to a point of intersection with the line one hundred yards from the mean high water line of Lac Des Allemands, thence proceeding westerly along said line to a point of intersection with a line one hundred yards from the mean high water line of Bayou Boeuf, thence proceeding southerly along the line one hundred yards from the mean high water line of Bayou Boeuf to a point of intersection with Highway 307, thence proceeding westerly along Highway 307 to a point of intersection with Highway 20, thence proceeding northerly along Highway 20 to a point of intersection with the boundary separating St. James Parish and Lafourche Parish, thence proceeding westerly along said boundary to a point of intersection with the boundary separating St. James Parish and Assumption, thence proceeding northerly along said boundary to a point of intersection with the boundary separating St. James Parish and Ascension parish, thence proceeding northerly and easterly along said boundary to a point of intersection with the boundary separating Ascension Parish and St. John the Baptist Parish, thence proceeding northerly along said boundary to a point of intersection with the boundary separating Ascension Parish and Livingston Parish, thence proceeding northwesterly along said boundary to a point of intersection with the boundary separating Livingston Parish and East Baton Rouge Parish, thence proceeding northwesterly along said boundary to a point of intersection with Interstate Highway 12 thence proceeding easterly along Interstate Highway 12 to a point of intersection with Interstate Highway 10, thence proceeding easterly along Interstate Highway 10 to a point of intersection with the boundary separating Louisiana and Mississippi.

D. Within 180 days of the enactment of this Part, the secretary shall adopt a fully delineated inland boundary in accordance with the provisions of Subsection C, which boundary shall not depart appreciably from the boundary delineated therein, provided that the secretary shall be authorized to amend the boundary as may be appropriate to follow the corporate limits of any municipality divided by the boundary. The boundary, as adopted, shall be clearly marked on large scale maps or charts, official copies of which shall be available for public inspection in the offices of the secretary, the Louisiana Coastal Commission, the Coastal Management Section, and each local government in the coastal zone.

§213.5 Types of uses.

A. Uses of the coastal zone subject to the coastal use permitting program shall be of two types.

(1) Uses of state concern: Those uses which directly and significantly affect coastal waters and which are in need of coastal management and which have impacts of greater than local significance or which significantly affect interests of regional, state, or national concern. Uses of state concern shall include, but not be limited to:

(a) Any dredge or fill activity which intersects with more than one water body.

(b) Projects involving uses of state owned lands or water bottoms.

(c) State publicly funded projects.

(d) National interest projects.

(e) Projects occurring in more than one parish.

(f) All mineral activities, including exploration for, and production of, oil, gas, and other minerals, all dredge and fill uses associated therewith, and all other associated uses.

(g) All pipelines for the gathering, transportation or transmission of oil, gas and other minerals.

(h) Energy facility siting and development.

(1) Uses of local concern which may significantly affect interests of regional, state or national concern.

(2) Uses of local concern: Those uses which directly and significantly affect coastal waters and are which should be regulated primarily at the local level if the local government has an approved program. Uses of local concern shall include, but not be limited to:

(a) Privately funded projects which are not uses of state concern.

(b) Publicly funded projects which are not uses of state concern.

(c) Maintenance of uses of local concern.

(d) Jetties or breakwaters.

(e) Dredge or fill projects not intersecting more than one water body.

(f) Bulkheads

(g) Piers.

(h) Camps and cattlewalks.

(i) Maintenance dredging.

(j) Private water control structures of less than \$15,000 in cost.

(k) Uses on cheniers, salt domes, or similar land forms.

B. Subject to the provisions of this Part, the delineation of uses of state or local concern shall not be construed to prevent the state or local governments from otherwise regulating or issuing permits for either class of use pursuant to another law.

C. The secretaries of the Departments of Natural Resources, Transportation and Development, and Wildlife and Fisheries are authorized to jointly develop for adoption by the secretary, after notice and public hearing, rules for the further delineation of the types of uses which have a direct and significant impact on coastal waters and which demonstrate a need for coastal management, the classification of uses not listed herein, and for the modification and change of the classification of uses not listed herein, and for the modification and change of the classifications of uses, provided that no changes shall be made in the classifications of the uses listed in Subsection A.

D. In order for the state to exercise all or part of the federal government's authority for the issuance of permits for discharges of dredged or fill material within the coastal zone, the secretary is authorized to adopt necessary and appropriate rules, consistent with the other provisions of this statute, for the regulation of discharges of dredge or fill material into waters in the coastal zone subject to Section 404 regulation by the Corps of Engineers.

E. When only part of a use lies within the coastal zone, only that portion of the use which is located within the coastal zone is considered a use subject to a coastal use permit under this Part.

F. All uses and activities within the coastal zone are permissible, except as subject to the permitting requirements of this Part.

A. There is hereby created a Coastal Management Section.

(1) A Coastal Management Section shall be created within the Department of Transportation and Development and the secretary shall administer the Coastal Management Section.

(2) The Coastal Management Section shall be under the supervision and control of an administrator selected and appointed by the secretary in accordance with the Louisiana Civil Service laws.

(3) The secretary is authorized to select and appoint such additional staffing as may be necessary to carry out the provisions of this Part.

B. The administrator shall:

(1) Receive, evaluate, and make recommendations to the secretary concerning applications for coastal use permits.

(2) Conduct or cause to be conducted investigations, studies, planning, and research.

(3) Systematically monitor and conduct surveillance of permitted uses to ensure that conditions of coastal use permits are satisfied.

(4) Coordinate closely with the secretary and local, state, regional, and federal agencies with respect to coastal management.

C. The administrator shall have the authority to:

(1) Take appropriate enforcement measures for violations of this part.

(2) Seek civil relief, as provided by Section 213.17(D).

(3) Provide advice and technical assistance to the secretary, the commission, and local governments.

(4) Conduct such activities or make such decisions as may be delegated or authorized by the secretary.

D. The secretary shall make decisions on applications for coastal use permits and may establish conditions on the granting of coastal use permits.

E. The secretary is further authorized to carry out those duties delegated to the administrator by Subsections B and C of this Section.

§213.7. Louisiana Coastal Commission; membership, etc.

A. The Louisiana Coastal Commission is hereby created as an independent body within the Department of Transportation and Development shall be staffed by the Department of Transportation and Development. It shall function as an administrative appeals body for decisions regarding coastal use permits and approval of local programs and as herein after provided.

B. The commission shall be composed of twenty three members as follows: one each shall be appointed by the local governing authority of the parishes of Cameron, St. Tammany, Vermilion, Iberia, St. Mary, Terrebonne, Lafourche, Jefferson, Plaquemines, St. Bernard and Orleans; the governor shall appoint 11 members with one representing the oil and gas industry, one representing agriculture and forestry, one representing commercial fishing and trapping, one representing sport fishing, hunting

and outdoor recreation, one representing ports, shipping and transportation, one representing nature preservation and environmental protection, one representing coastal landowners, one representing municipalities, one representing the utility industry, one representing producer of solid minerals, and one representing industrial development; the secretary of the Department of Wildlife and Fisheries, or his designee, shall be a member of the governor's appointees, one shall be domiciled in Calcasieu parish; one shall be domiciled in St. Charles Parish; one shall be domiciled in St. John the Baptist parish; one shall be domiciled in Tangipahoa parish; one shall be domiciled in St. James parish. The local governments and the governor shall also appoint an alternate for each of the members that they appoint. The alternate may vote and speak on behalf of the representative in his absence. All appointments by the governor to the commission shall be first confirmed by the Senate.

C. The members on the commission representing local government shall be appointed by the local governing authority of the designated coastal parishes. The members appointed by the governor shall be residents of the designated coastal parishes. All members of the commission shall serve at the pleasure of the appointing authority.

D. Within sixty days of the effective date of this Part, the local governing authority of each parish shall select one person as its representative and one person as an alternate who may vote and speak on behalf of the representative in his absence.

E. The presiding officer from each of the local governments appointing members shall submit a letter to the governor naming he representative and alternate for that parish within sixty days of the effective date of this Part. Members of the commission shall serve for terms of two years which shall run from the date of the first organizational meeting of the commission. Members may succeed themselves indefinitely, but every second year they shall be confirmed by the appropriate appointing authority. Failure of a parish to appoint shall not prevent the commission from conducting its business.

F. (1) The governor shall designate one of the parish representatives as acting chairman of the commission. The acting chairman shall call an organizational meeting of the commission promptly after the sixty days provided for making appointments has elapsed or after all members have been appointed, whichever first occurs. At the first meeting the commission shall elect a chairman and a vice chairman and decide upon the rules for conducting commission business.

(2) The commission shall meet as often as necessary to conduct its business but no less frequently than once every three months. A quorum shall consist of at least twelve members of the commission.

G. Each member of the commission shall serve in an individual capacity and not as a representative of his employer or organization.

H. Vacancies occurring in the membership of the commission shall be filled for the unexpired term by the local government making the appoint

ment to the vacated position or by the governor if the position was first appointed by the governor.

1. Members of the commission shall be compensated fifty dollars per diem for each day spent attending commission meetings and on business duly authorized by the commission at a meeting. In addition, all members shall be reimbursed for mileage at the rate of sixteen cents per mile.

§213.8. Coastal management program

A. The secretary shall develop the overall state coastal management program consisting of all applicable constitutional provisions, laws and regulations of this state which affect the coastal zone in accordance with the provision of this Part and shall include within the program such other applicable constitutional or statutory provisions or other regulatory or management programs or activities as may be necessary to achieve the purposes of this Part or necessary to implement the guidelines hereinafter set forth.

B. Prior to the effective date of this Part, the secretary shall begin to develop a management program and shall develop guidelines in conjunction with the secretaries of the Department of Wildlife and Fisheries and the Department of Natural Resources. Notice of the issuance of the proposed guidelines shall be given to relevant federal, state, and local governmental bodies and the general public and public hearings shall be held. After consideration of comments received, the secretary shall submit the jointly developed guidelines to the commission for their review and approval. The commission may disapprove individual guidelines giving their reason in writing for each guideline disapproved. The commission shall have sixty days to act, and lack of official action shall constitute approval. Any guidelines disapproved shall be returned to the secretaries of the Departments of Transportation and Development, Natural Resources, and Wildlife and Fisheries, acting jointly, for further consideration. The secretaries shall submit within thirty days revised guidelines to the commission. The commission shall have thirty days to act pursuant to the above procedures. Any guideline so rejected shall be submitted to the House Committee on Natural Resources and Senate Committee on Natural Resources pursuant to §213.18 and then to the governor for final determination. The secretary shall adopt those guidelines approved by the commission or the governor.

The adopted guidelines shall be followed in the development of the state program and local programs, and shall serve as criteria for the granting, conditioning, denying, revoking, or modifying of coastal use permits. The secretary, jointly with the secretaries of the Department of Wildlife and Fisheries and the Department of Natural Resources, shall review the guidelines at least once each year to consider modifications to the guidelines as a result of experience in issuing coastal use permits and results of research and planning activities. Any modifications shall be subject to the approval of the commission pursuant to the procedures set forth in this subsection.

C. The state guidelines shall have the following goals:

(1) To encourage full use of coastal resources while recognizing it is in the public interest of the people of Louisiana to establish a proper balance between development and conservation.

(2) Recognize that some areas of the coastal zone are more suited for development than other areas and hence use guidelines which may differ for the same uses in different areas.

(3) Require careful consideration of the impacts of uses on water flow, circulation, quantity, and quality and require that the discharge or release of any pollutant or toxic material into the water or air of the coastal zone be within all applicable limits established by law, or by federal, state, or local regulatory authority.

(4) Recognize the value of special features of the coastal zone such as barrier islands, fishery nursery grounds, recreation areas, ports and other areas where developments and facilities are dependent upon the utilization of or access to coastal waters, and areas particularly suited for industrial, commercial, or residential development and manage those areas so as to enhance their value to the people of Louisiana.

(5) Minimize, whenever feasible and practical, detrimental impacts on natural areas and wildlife habitat and fisheries by such means as encouraging minimum change of natural systems and by multiple use of existing canals, directional drilling, and other practical techniques.

(6) Provide for adequate corridors within the coastal zone for transportation, industrialization, or urbanization and encouraging the location of such corridors in already developed or disturbed areas when feasible or practicable.

(7) Reduce governmental red tape and costly delays and ensure more predictable decisions on permit applications.

(8) Encourage such multiple uses of the coastal zone as are consistent with the purposes of this Part.

(9) Minimize detrimental effects of foreseeable cumulative impacts on coastal resources from proposed or authorized uses.

(10) Provide ways to enhance opportunities for the use and enjoyment of the recreational values of the coastal zone.

(11) Require the consideration of available scientific understanding of natural systems, available engineering technology and economics in the development of management programs.

(12) Establish procedures and criteria to ensure that appropriate consideration is given to uses of regional, state, or national importance, energy facility siting and the national interests in coastal resources.

D. In the development and implementation of the overall management program, reasonable efforts shall be made to inform the people of the state about the coastal management program and participation and comments by federal, state, and local governmental bodies, including port authorities, levee boards, regional organizations, planning bodies, municipalities and public corporations and the general public shall be invited and encouraged.

All governmental bodies may participate to ensure that their interests are full considered.

§213.9 Local coastal management programs.

A. Local governments may develop local coastal management programs in accordance with the provisions of this Section.

B. Within one hundred twenty days of the effective date of this Part, the secretary shall adopt, after notice and public hearing, rules and procedures for the development, approval, modification, and periodic review of local coastal management programs.

C. The rules and procedures adopted pursuant to this Section shall be consistent with the state guidelines and shall provide particularly, but not exclusively, that:

(1) Local governments, in developing local programs, shall afford full opportunity for municipalities, state and local government bodies, and the general public to participate in the development and implementation of the local program.

(2) A public hearing to receive comments on a proposed local program shall be held in the area to be subject to the program by the local government proposing the program or its duly appointed local committee.

(3) A local program developed under this Section shall be consistent with the state guidelines and with the policies and objectives of this Part and shall particularly, but not exclusively, consist of:

(a) A description of the natural resources and the natural resource users of the coastal zone area within the parish, the social and economic needs within particular areas of the coastal zone of the parish, and the general order or priority in which those needs which directly and significantly affect coastal waters should be met within the coastal zone of the parish.

(b) Procedures to be used by the local government to regulate uses of local concern.

(c) Special procedures and methods for considering uses within special areas, uses of greater than local benefit, and uses affecting the state and national interest.

(4) Each local government preparing a local program under this Section may appoint a coastal advisory committee (hereinafter called "local

committee"). The local committee shall be composed of a reasonable number of persons who represent users of coastal resources and shall include representation of users concerned with conservation and preservation of renewable coastal resources and users concerned with development of resources for commercial purposes. The local committee shall assist local government in the development and implementation of a local program and in the development of special management programs affecting special areas. The local committee may report progress or problems in the implementation of the state and local programs and may convey ideas and suggestions to the local governments and the administrator.

(5) Local programs shall be submitted to the secretary for review and may be submitted after promulgation of the state guidelines and the rules adopted pursuant to this Section.

D. In approving a local program, the secretary, acting jointly with the secretaries of the Department of Natural Resources and the Department of Wildlife and Fisheries, may make reasonable interpretations of the state guidelines insofar as they affect that particular local program, which are necessary because of local environmental conditions or user practices. The secretary may otherwise provide for the requirements for approval of local programs.

E. Within ninety days after receipt of a proposed local program, the secretary shall either approve the program or notify the local government of the specific changes which must be made in order for it to be approved. Before making his decision the secretary shall consider each proposed local program, the comments received from other agencies, interested persons and the public hearing, the state guidelines and the rules adopted pursuant to this Section. A local program may be resubmitted, or amended following the same procedures outlined herein.

F. A local government or any other persons adversely affected by a decision of the secretary pursuant to subsection E may appeal the decision to the commission pursuant to section 213.16.

G. No local coastal program shall become effective until it has been approved by the secretary. Once approved, a local program shall be available for public inspection at the offices of the local government and of the administrator.

H. Once a local program is approved by the secretary:

(1) Uses of local concern within the parish's coastal zone must be consistent with the local program and shall be subject to the issuance of coastal use permits by the local government.

(2) The local program may be altered or modified only with approval of the secretary pursuant to the procedures provided for approval of local program.

(3) The local program, its procedures and implementation shall be subject to periodic review by the secretary to ensure continued consistency

with the state program, guidelines, and with the policies and purpose of this Part. The secretary shall require the modification of the local program or its procedures when necessary to ensure such consistency pursuant to the procedures provided for approval of a local program.

J. The secretary is authorized to enter into contracts with local governments to provide financial assistance on a matching fund basis to aid the development and implementation of approved local programs under this Part. The secretary shall develop rules and procedures after notice and public hearing, under which local governments may qualify for such assistance.

§213.10 Special areas and projects

A. Special areas are areas within the coastal zone which have unique and valuable characteristics requiring special management procedures. Special areas may include important geological formations, such as beaches, barrier islands, shell deposits, salt domes, or formations containing deposits of oil, gas or other minerals; historical or archaeological sites; corridors for transportation, industrialization or urbanization; areas subject to flooding, subsidence, salt water intrusion or the like; unique, scarce, fragile, vulnerable, highly productive or essential habitat for living resources; ports or other developments or facilities dependent upon access to water; recreational areas; freshwater storage areas; and such other areas as may be determined pursuant to this Section.

B. The secretary shall adopt, after notice and public hearing, rules for the identification, designation, and utilization of special areas and for the establishing of guidelines or priorities of uses in each area, subject to the approval of the commission.

C. Those areas and facilities subject to the jurisdiction of the Offshore Terminal Authority are deemed to be special areas. The environmental protection plan required by R.S. 34:3113 shall constitute the management guidelines for this special area and shall continue to be administered and enforced by the Offshore Terminal Authority or its successor in accordance with the policies and objectives of the state program.

D. The secretary shall have the authority to set priorities, consistent with this Act, for funding available under Section 308 of the Federal Coastal Zone Management Act (PL 92-583 as amended by PL 94-370).

E. The secretary is authorized to assist approved local programs and state and local agencies carrying out projects consistent with the guidelines, related to the management development, preservation, or restoration of specific sites in the coastal zone or to the development of greater use and enjoyment of the resources of the coastal zone by financial, technical, or other means, including aid in obtaining federal funds.

F. Notwithstanding any law, order, or regulation to the contrary, the secretary shall prepare a freshwater diversion plan for the state in order to reserve or offset land loss and salt water encroachment in Louisiana's coastal wetlands. As part of this plan the secretary shall prepare specific recommendations as to those locations which are most in need of freshwater diverted from the Mississippi River and other water bodies of the state, and he shall include the projected costs thereof and the order of priority.

G. The secretary shall develop an indexing system whereby those wetland, coastline, and barrier island areas which are undergoing rapid change or are otherwise considered critical shall be identified; and the secretary shall also undertake a pilot program to create one or more artificial barrier islands in order to determine the effectiveness of such islands in controlling shoreline erosion.

§213.11 Coastal use permits

A. No person shall commence a use of state or local concern without first applying for and receiving a coastal use permit. Decisions on coastal use permit applications shall be made by the secretary, except that the local government shall make coastal use permit decisions as to uses of local concern in areas where an approved local program is in effect.

B. Within one hundred twenty days after the effective date of this Part, the secretary shall adopt, after notice and public hearing, rules and procedures consistent with this Part for both the state coastal management program and approved local programs regarding the form and information requirements for coastal use permit applications, the coastal use permit review process, public notice and public comments, criteria and guidelines for decision making, appeals and emergency activities.

C. The rules promulgated pursuant to this Section shall, among other things, provide that:

(1) Coastal use permit applications shall be submitted to the administrator, except that applications for uses in areas subject to an approved local program may instead be submitted to the local government. Local governments with an approved program to whom applications are submitted shall make the initial determination, subject to review by the administrator with a right of appeal to the commission, as to whether the proposed use is of state concern or local concern. In the event of an appeal to the commission, the burden of proof shall be on the administrator. Copies of all applications submitted to local governments, and the local government's use-type determination, shall be transmitted to the administrator within two days of receipt.

(2) Within ten days of receipt of a coastal use permit application by the administrator, copies of the application shall be distributed to the

local government or governments in whose parish the use is to occur and all appropriate state and local agencies and public notice shall be given. A public hearing on an application may be held.

(3) The decision to approve, approve with modifications, or otherwise condition approval, or deny the coastal use permit shall be made within thirty days after public notice or within fifteen days after a public hearing, whichever is later. The coastal use permit decision must be consistent with the state program and approved local programs for affected parishes and must represent an appropriate balancing of social, environmental and economic factors. In all instances local government comments shall be given substantial consideration.

(4) The decision to approve, approve with modifications, or otherwise condition approval, or deny the application for a coastal use permit shall be in writing and copies of the decisions shall be sent to all parties.

(5) Public notice of coastal use permit decisions shall be given.

(6) The secretary may adopt rules providing for alternate procedures for the filing of applications, distribution of copies, giving of notices, and public hearings in order to implement the coordinated coastal permitting process established pursuant to Section 213.14.

D. The applicant, the secretary, and affected local government or affected federal, state, or local agency, any aggrieved person, or any other person adversely affected by a coastal use permit decision may appeal the coastal use permit decision to the commission. An appeal must be filed in writing within thirty days following public notice of the final decision and shall be in accordance with procedures adopted by the commission.

E. The secretary is authorized to adopt rules and procedures for the issuance of general coastal use permits and for the issuance of variances from the normal coastal use permitting requirements. For the purposes of this Part, a general coastal use permit is an authorization to prospective users to perform specific uses within prescribed areas of the coastal zone without the necessity for a complete, independent review of each proposed use and allows the shortest time period for review possible. The rules and procedures which may be adopted pursuant to this Section shall provide for expeditious processing of applications for general coastal use permits and may authorize variances from the normal coastal use permit application and review procedures. General coastal use permits and variances from the normal coastal use permitting requirements may not be issued except when the issuance of such general coastal use permits or variances does not impair the fulfillment of the objectives and policies of the Part.

F. The secretary shall adopt rules whereby specified types of activities may be carried out under prescribed emergency conditions without the necessity of obtaining a coastal uses permit in advance.

G. The secretary is authorized to establish a reasonable schedule for fees to be charged to the applicant for the processing and evaluation of coastal uses permit applications.

§213.12 Existing authority of certain state departments and local governments retained

A. Nothing in this Part shall abridge the constitutional authority of any department of state government or any agency or office situated within a department of state government. Nor shall any provision, except as clearly expressed herein, repeal the statutory authority of any department of state government.

B. Permits issued pursuant to existing statutory authority of the office of conservation in the Department of Natural Resources for the location, drilling, exploration and production of oil, gas, sulphur or other minerals shall be issued in lieu of coastal use permits, provided that the office of conservation shall coordinate such permitting actions pursuant to §213.13(B) and (D) and shall ensure that all activities so permitted are consistent with the guidelines, the state program and any affected local program.

C. Permits issued pursuant to existing statutory authority by the Department of Wildlife and Fisheries for the leasing, seeding, cultivation, planting, harvesting or marking of oyster bedding grounds shall be issued in lieu of coastal use permits, provided that the Department of Wildlife and Fisheries shall coordinate such permitting actions pursuant to §213.13(b) and (D) and shall ensure that all activities so permitted are consistent with the guidelines, the state program and any affected local program.

D. The provisions of this Part are not intended to abridge the constitutional authority of any local governments, levee boards or other political subdivisions.

§213.13 Intergovernmental coordination and consistency

A. Deep water port commissions and deep water port, harbor, and terminal districts, as defined in Article 6, Sections 43 and 44 of the Louisiana Constitution of 1974, shall not be required to obtain coastal use permits. Provided, however, that their activities shall be consistent to the maximum extent practicable with the state program and affected approved local programs.

B. Any governmental body undertaking, conducting, or supporting activities directly affecting the coastal zone shall ensure that such activities shall be consistent to the maximum extent practicable with the state program and any affected approved local program having geographical jurisdiction over the action.

C. Consistency determinations shall be made by the secretary except the consistency determinations for uses carried out under the secretary's authority shall be made by the governor.

D. Governmental bodies shall fully coordinate their activities directly affecting the coastal zone with the state program and affected approved local programs. When the secretary finds that governmental actions not subject to the coastal use permitting program may significantly affect land and water resources within the coastal zone, he shall notify the secretaries of the Department of Natural Resources and Wildlife and Fisheries and the concerned governmental body carrying out the action. Any governmental body so notified shall coordinate fully with the secretaries acting jointly, at the earliest possible state of the proposed action. The secretaries shall make comments to such other agencies in order to assure that such actions are consistent with the state program and affected local programs. Comments received from the secretaries shall, to the maximum extent practicable, be incorporated into the action commented upon.

E. Provided that neither the state nor any local government having an approved local program shall be liable for any damages resulting from activities occurring in connection with the granting of any coastal use permit pursuant to this Section; and provided further that any person undertaking any use within the coastal zone in accordance with the terms and conditions of a coastal use permit issued pursuant to this Section shall be considered in full compliance with the purposes and provisions of this Part.

§213.14 Coordinated coastal permitting process

A. This Section is intended to expedite and streamline the processing of issuing coastal use permits and of obtaining all other concurrently required permits or approvals from other governmental bodies having separate regulatory jurisdiction or authority over uses of the coastal zone without impinging on the regulatory jurisdiction or authority of such other governmental bodies.

B. To implement this intent, within one year of the effective date of this Part, the secretary, the administrator, local governments, and all other relevant governmental bodies having such other regulatory jurisdiction or authority over uses of the coastal zone shall in cooperation with one another and under the direction of the governor establish a coordinated coastal permitting process by means of binding interagency agreements wherein:

(1) One application form serves as the application form for all required permits or approvals from all governmental bodies taking part in the coordinated coastal permitting process.

(2) The application contains sufficient information so that all necessary reviews by all affected governmental bodies can be expeditiously carried out.

(3) A "one window" system for applications is established, with copies of the application being transmitted to all governmental bodies taking part in the coordinated coastal permitting process.

(4) Only one public hearing, if any, need to be held on the application. Any public hearing held shall be deemed to serve for all governmental bodies taking part in the coordinated coastal permitting process.

(5) The shortest practicable period for review of applications by all governmental bodies taking part in the coordinated coastal permitting process insofar as the application pertains to the regulatory jurisdiction or authority of such governmental body, is provided for.

(6) The coordinate coastal permitting process shall not affect the powers, duties, or functions of any governmental body particularly the Department of Wildlife and Fisheries and the Office of Conservation in the Department of Natural Resources.

(7) If practicable, a joint permitting process with federal agencies issuing permits shall be established incorporating the coordinated coastal permitting process.

C. Provided that local zoning, subdivision, building, health, and other similar permits, reviewing, or approvals which are not part of an approved local program shall not be included within the unified permitting program; nor shall any other permit review or approval which, in the discretion of the secretary, would be inappropriate for inclusion in a unified permit.

D. Prior to the implementation of the unified coastal permitting program, the secretary is authorized to develop interim interagency agreements with the respective governmental bodies to coordinate permit handling, decision making, and appeal procedures.

§213.15 Activities not requiring a coastal use permit

A. The following activities shall not require a coastal use permit

(1) Activities occurring wholly on lands five feet above mean sea level except when the secretary finds, subject to appeal to the commission, that the particular activity would have direct and significant impacts on coastal waters. In the event of appeal to the commission the burden of proof shall be on the secretary.

(2) Activities occurring within fast lands except when the secretary finds, subject to appeal to the commission, that the particular activity would have direct and significant impacts on coastal waters.

(3) Agricultural, forestry, and aquaculture activities on lands consistently used in the past for such activities.

(4) Hunting, fishing, trapping, and the preservation of scenic, historic, and scientific areas and wildlife preserves.

(5) Normal maintenance or repair of existing structures including emergency repairs of damage caused by accident, fire, or the elements.

(6) Uses and activities within the special area established in Section 213.10(C) which have been permitted by the Offshore Terminal Authority in keeping with its environmental protection plan.

(7) Construction of a residence or camp.

(8) Construction and modification of navigational aids such as channel markers and anchor buoys.

(9) Construction, maintenance, repair, or normal use of any dwelling, apartment complex, hotel, motel, restaurant, service station, garage, repair shop, school, hospital, church, office building, store, amusement park, sign, driveway, sidewalk, parking lot, fence, or utility pole or line, when these activities occur wholly on lands five feet or more above mean sea level or on fast lands except when the secretary finds, subject to appeal to the commission, that the particular activity would have direct and significant impacts on coastal waters. In the event of appeal to the commission the burden of proof shall be on the secretary.

(10) Uses which do not have a significant impact on coastal waters.

B. The secretary shall adopt rules for the implementation of this Section and may, by such rules, specify such other activities not requiring a coastal use permit as are consistent with the purposes of this Part.

Provided, however, that nothing in this Subsection shall be construed as otherwise abrogating the lawful authority of agencies and local governments to adopt zoning laws, ordinance, or rules and regulations for those activities within the coastal zone not requiring a coastal use permit and to issue licenses and permits pursuant thereto. Provided further that individual specific uses legally commenced or established prior to the effective date of the coastal use permit program shall not require a coastal use permit.

§213.16. Appeals

A. All appeals to the commission shall be conducted in accordance with the adjudication procedure for the Louisiana Administrative Procedures Act except as otherwise provided herein.

B. The commission shall, in the interest of justice, grant a stay of a decision on a coastal use permit or approval of a local program until the appeal decision is rendered.

C. The commission shall affirm, modify, or reverse the decision provided that a majority vote shall be required to modify or reverse. A modification or reversal of a decision can be based only on one or more of the following criteria:

(1) The decision represents an unreasonable interpretation of the state program or guidelines or of the affected approved local program.

(2) The decision places an onerous and inequitable burden on the applicant and only minimal and inconsequential variance from the objectives and policies of this Part would result from not requiring compliance with the State program and guidelines or an approved local program, or both.

(3) The decision is clearly contrary to the provisions of this Part, or to the evidence presented to the secretary, the administrator, or to the local government.

(4) The decision is unreasonable, arbitrary or capricious, or characterized by an abuse of discretion, or a clearly unwarranted exercise of discretion.

D. All hearings on appeals shall be conducted by the commission at public hearings. The commission shall decide the appeal on the basis of the record compiled before the secretary or approved local program and the record of the hearing provided for in this subsection. The commission's decision shall be rendered within forty-five days of receipt of a petition for an appeal and shall be issued in accordance with the adjudication provisions of the Louisiana Administrative Procedures Act. Appropriate notice of decision shall be given to parties and the public.

Once the commission's decision has been reached, the commission shall direct the secretary, the administrator or local government to take the action necessary to resolve the issued presented by the application and the commission's decision.

E. The commission's decision shall constitute final agency action under the Louisiana Administrative Procedures Act.

F. Only final decisions by the commission shall be subject to judicial review. The applicant, the administrator, the secretary, an affected state or local governmental body, or any person adversely affected by the final decision shall be entitled to judicial review.

G. Judicial review shall otherwise be pursuant to the Louisiana Administrative Procedures Act, provided that all such cases shall be tried with preference and priority. Trial de novo shall be held upon request of any party.

H. Venue for purposes of this Section shall be any parish in which the proposed use is to be situated.

§213.17 Enforcement; injunction; penalties and fines

- A. The administrator and each local government with an approved program shall initiate a field surveillance program to ensure the proper enforcement of the management program. The secretary may enter into interagency agreements with appropriate agencies to assist in the surveillance, monitoring, and enforcement activities pursuant to this Part.
- B. The secretary, and each local government with an approved program as to uses under its jurisdiction, shall have the authority to issue cease and desist orders against any person found to be in violation of this Part or the rules and regulations issued hereunder.
- C. The secretary, and each local government with an approved program as to coastal use permits issued by it, shall have the authority to suspend, revoke, or modify coastal use permits if the user is found to have violated any of the conditions of the coastal use permit.
- D. The secretary, the administrator, the attorney general, an appropriate district attorney, or a local government with an approved program may bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the coastal zone for which a coastal use permit has not been issued when required or which are not in accordance with the terms and conditions of a coastal use permit.
- E. A court may impose civil liability and assess damages; order, where feasible and practical, the payment of the restoration costs, require, where feasible and practical, actual restoration of areas disturbed; or otherwise impose reasonable and proper sanctions for uses conducted within the coastal zone without a coastal use permit where a coastal use permit is required or which are not in accordance with the terms and conditions of a coastal use permit. The court in its discretion may award costs and reasonable attorney's fees to the prevailing party.
- F. Any person found to have knowingly and intentionally violated the provisions of this part, any of the rules and regulations issued hereunder, or the terms or conditions of any coastal use permit shall be subject to a fine of not less than one hundred dollar s and notmore than five hundred dollars, or imprisonment for not more than ninety days, or both.
- G. Any action pursuant to this Section, whether criminal or civil, must be brought in any parish in which the use or activity is situated. If the use or activity is situated in one or more parishes, then any action may be brought in either of the parishes in which the use or activity is situated.

§213.18. Approval of rules, regulations, or guidelines

Any rule, regulation, or guideline shall be proposed or adopted pursuant to the rule making procedures set forth in the Louisiana Administrative Procedures Act and shall be subject to approval by the House

Committee on Natural Resources and Senate Committee on Natural Resources. Such approval shall be presumed unless either committee submits objections in writing within fifteen days after receipt of the proposed rule, regulation, or guideline. Provided that such written objections shall be subject to override by the governor within five days after receipt of the objections by the governor.

§213.19. Affect on titles

- A. Nothing in this Part shall be construed as affecting the status of the title of the state or other governmental body to real rights in lands or water bottoms.
- B. The involuntary acquisition, directly or indirectly, of privately owned property is not necessary to achieve the intents and purposes of this Part. No rule, regulation, ordinance, order, or standard, the purpose or application of which is to effect and involuntary acquisition or taking of such property, shall be adopted, enacted, or implemented pursuant to the provisions of this Part.

§213.20. Effective date

This Part shall become effective on January 1, 1979, except that the coastal use permit program established pursuant to Section 213.11 shall not commence until thirty days after the adoption of guidelines pursuant to Section 213.8.

§213.21. Transfer of authority

The authority vested in the secretary of the Department of Transportation and Development as defined in Section 213.3(7) may be vested in the secretary of the Department of Natural Resources or in the secretary of the Department of Wildlife and Fisheries upon order of the governor.

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this Act which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

APPENDIX c1
RULES AND PROCEDURES FOR COASTAL USE PERMITS

PART 1.General

A. Coastal Use Permits

This regulation provides the requirements and procedures for the issuance, denial, renewal, modification, suspension, and revocation of coastal use permits and general coastal use permits.

B. Permit Requirements

- (1) No use of state or local concern shall be commenced or carried out in coastal zone without a valid coastal use permit or in-lieu permit unless the activity is exempted from permitting by the Act of by Part II of these regulations.
- (2) The following shall be considered as uses of state or local concern subject to the requirement of subsection (1) above:
 - a. Dredging or filling and discharges of dredged or fill material.
 - b. Levee siting, construction, operation and maintenance.
 - c. Hurricane and flood protection facilities, including the siting, construction, operation and maintenance of such facilities.
 - d. Urban developments, including the siting, construction or operation of residential, commercial, industrial, and governmental structures and transportation facilities.
 - e. Energy development activities, including any siting, construction, or operation of generating, processing and transmission facilities, pipeline facilities, and exploration for and production of oil, natural gas and geothermal energy.
 - f. Mining activities, including surface, subsurface, and underground mining, sand or gravel mining and shell dredging.
 - g. Wastewater discharge, including point and non-point sources.
 - h. Surface water control or consumption, including marsh management projects.
 - i. Shoreline modification projects and harbor structures.
 - j. Waste disposal activities.

- k. Recreational developments, including siting, construction and operation of public and private recreational facilities and marinas.
- l. Industrial development, including siting, construction, or operation of such facilities.
- m. Any other activities or projects that would require a permit or other form of consent or authorization from the U.S. Army Corps of Engineers, the Environmental protection Agency or the Louisiana Department of Natural Resources. (See page 83 item 13)
- n. Activities which impact barrier islands, salt domes, cheniers and beaches.
- o. Drainage projects.

C. In-lieu Permits

Coastal Use Permits shall not be required for the location, drilling, exploration and production of oil, gas, sulphur and other minerals subject to regulation by the Office of Conservation of the Department of Natural Resources as of January 1, 1979. The parameters and procedures for the in-lieu permit process are as provided for under existing Memorandum of Understanding between the Coastal Management Section and the Office of Conservation and the rules and procedures of the Office of Conservation.

PART II. Activities Not Requiring Permits

A. General

- (1) The following activities normally do not have direct and significant impacts on coastal waters; hence, a coastal use permit is not required, except as set forth in the following subsections:
 - (a) Agricultural, forestry, and aquaculture activities on lands consistently used in the past for such activities.
 - (b) Hunting, fishing, trapping, and the preservation of scenic historic, and scientific areas and wildlife preserves.
 - (c) Normal maintenance or repair of existing structures including emergency repairs of damage caused by accident, fire, or the elements.
 - (d) Construction of a residence or camp.
 - (e) Construction and modification of navigational aids such as channel markers and anchor buoys.

- (f) Activities which do not have a direct and significant impact on coastal waters.
- (2) Uses and activities within the special area established by §213.10(C) which have been permitted by the Offshore Terminal Authority in keeping with its environmental protection plan shall not require a coastal use permit.

B. Activities on Lands Five Feet or more above Sea Level or Within Fastlands

- (1) Activities occurring wholly on lands five feet or more above sea level or within fast lands do not normally have direct and significant impacts on coastal waters. Consequently, a coastal use permit for such uses generally need not be applied for.
- (2) However, if a proposed activity exempted from permitting in Subsection B(1), above, will result in discharges into coastal waters, or significantly change existing water flow into coastal waters, then the person proposing the activity shall notify the Secretary and provide such information regarding the proposed activity as may be required by the Secretary in deciding whether the activity is a use subject to a coastal permit.
- (3) Should it be found that a particular activity exempted by Subsection B(1) above may have a direct and significant impact on coastal waters, the Department may conduct such investigation as may be appropriate to ascertain the facts and may require the persons conducting such activity to provide appropriate factual information regarding the activity so that a determination may be made as to whether the activity is a use subject to a permit.
- (4) The Secretary shall determine whether a coastal use permit is required for a particular activity. A coastal use permit will be required only for those elements of the activity which have direct and significant impacts on coastal survey.
- (5) The Secretary's decision whether an activity subject to this section requires a coastal use permit shall be appealable to the Coastal Commission pursuant to the provisions of §213.11(D) of the Act and the regulations adopted pursuant thereto. Provided, however, that in the event of an appeal to the Commission by the person conducting or proposing to conduct the activity, the burden of proof shall be on the Secretary. In the event of an appeal by any other person, the burden of proof shall be on the appellant.
- (6) The exemption described in this section shall not refer to activities occurring on cheniers, salt domes, barrier islands, beaches, and similar isolated, raised land forms in the coastal zone. It does refer to natural ridges and levees.

C. Emergency Uses

- (1) Coastal use permits are not required in advance for conducting uses necessary to correct emergency situations.
 - (a) Emergency situations are those brought about by natural or man-made causes, such as storms, floods, fires, wrecks, spills, which would result in hazard to life, loss of property, or damage to the environment if immediate corrective action were not taken.
 - (b) This exemption applies only to those corrective actions which are immediately required for the protection of lives, property or the environment necessitated by the emergency situation.
- (2) Prior to undertaking such emergency uses, or as soon as possible thereafter, the person carrying out the use shall notify the Administrator and the local government, if the use is conducted in a parish with an approved local program, and give a brief description of the emergency use and the necessity for carrying it out without a coastal use permit.
- (3) As soon as possible after the emergency situation arises, any person who has conducted an emergency use shall report on the emergency use to the approved local program or to the Administrator. A determination shall be made as to whether the emergency use will continue to have direct and significant impacts on coastal waters. If so, the user shall apply for an after-the-fact permit. The removal of any structure or works occasioned by the emergency and restoration of the condition existing prior to the emergency use may be ordered if the permit is denied in whole or in part.

D. Normal Maintenance and Repair

- (1) Normal repairs and the rehabilitation, replacement, or maintenance of existing structures shall not require a coastal use permit provided that:
 - (a) The structure or work was lawfully in existence, currently serviceable, and in active use during the year preceding the repair, replacement or maintenance; and
 - (b) The repair or maintenance does not result in an encroachment into a wetland area greater than that of the previous structure or work; and
 - (c) The repair or maintenance does not involve dredge or fill activities; and

- (d) The repair of maintenance does not result in a structure or facility that is significantly different in magnitude or function from the original.
- (2) This exemption shall not apply to the repair or maintenance of any structure or facility built or maintained in violation of the coastal management program.
- (3) Coastal use permits will normally authorize periodic maintenance including maintenance dredging. All maintenance activities authorized by coastal use permits shall be conducted pursuant to the conditions established for that permit. Where maintenance is performed which is not described in an applicable coastal use permit, it shall conform to this section.

E. Construction of a Residence or Camp

- (1) The construction of a residence or a camp shall not require a coastal use permit provided that:
 - A. The terms shall refer solely to structures used for non-commercial and non-profit purposes and which are commonly referred to as "single family" and not multiple family dwellings.
 - B. The terms shall refer solely to the construction of one such structure by or for the owner of the land for the owner's use and not to practices involving the building of more than one such structure as in subdividing, tract development, speculative building, or recreational community development.
- (2) The exemption shall apply only to the construction of the structure and appurtenances such as septic fields, out buildings, walkways, gazebos, small wharves, landings, boathouses, private driveways, and similar works, but not to any bulkheading or any dredging or filling activity except for small amounts of fill necessary for the structure itself and for the installation and maintenance of septic or sewerage facilities.

F. Navigational Aids

- (1) The construction and modification of navigational aids shall not require a coastal use permit.
- (2) The term shall include channel markers, buoys, marker piles, dolphins, piling, pile clusters, etc; provided that the exemption does not apply to associated dredge or fill uses or the construction of mooring structures, advertising signs, platforms, or similar structures associated with such facilities. All navigational aids constructed pursuant to this section shall conform to United States Coast Guard standards and requirements.

G. Agricultural, Forestry and Aquaculture Activities

- (1) Agricultural, forestry and aquacultural activities on lands consistently used in the past for such activities shall not require a coastal use permit provided that:
 - a. The activity is located on lands or in waters which have been used on an ongoing basis for such purposes, consistent with normal practices, prior to the effective date of the Act.
 - b. The activity does not require a permit from the U.S. Army Corps of Engineers and meets federal requirements for such exempted activities, and,
 - c. The activity is not intended to, nor will it result in, changing the agricultural, forestry, or aquacultural use to which the land has been consistently used for in the past to another use.
- (2) The exemption includes but is not limited to normal agricultural, forestry and aquacultural activities such as plowing; seeding; grazing; cultivating; insect control; fence building and repair; thinning; harvesting for the production of food, fiber and forest products; maintenance and drainage of existing farm, stock or fish ponds; digging of small drainage ditches; or maintenance of existing drainage ditches and farm or forest roads carried out in accordance with good management practices.

H. Blanket Exemption

- (1) No use or activity shall require a coastal use permit if:
 - a. The use or activity was lawfully commenced or established prior to the implementation of the coastal use permit process;
 - b. The administrator determines that it does not have a direct or significant impact on coastal waters; or
 - c. The administrator determines one is not required pursuant to part VII of these rules.

PART III. Permit Application, Issuance and Denial

A. General Requirements

- (1) Any person seeking to obtain a coastal use permit is required to file a completed application. The Department will provide the application forms and instructions, including example plats and interpretive assistance, to any interested party. The staffs of

the coastal management section and approved local programs shall be available for consultation prior to submission of an application and such consultation is strongly recommended. Application forms may be periodically revised to obtain all information necessary for review of the proposed project.

- (2) Separate applications shall be made for unrelated projects or projects involving noncontiguous parcels of property. Joint applications may be made in cases of related construction involving contiguous parcels of property.

B. Content of Application

- (1) The application submitted shall contain the same information required for a permit from the U.S. Army Corps of Engineers and such additional information as the Administrator determines to be reasonably necessary for proper evaluation of an application.

C. Fee Schedule

- (1) No fees will be charged for the issuance of coastal use permits by the Department. However a fee schedule may be established when joint permitting systems are established with other state agencies and the Corps of Engineers, provided that such fees shall be no more than the total of the fees established for the other permits. Local governments with approved programs may establish reasonable fee schedules for uses of local concern.

D. Processing the Application

- (1) When an apparently complete application for a permit is received, the permitting body shall immediately assign it a number for identification, acknowledge receipt thereof, and advise the applicant of the number assigned to it.
- (2) Application processing will begin when an application that is apparently complete is accepted by the permitting body.
- (3) Within two (2) working days of receipt of an apparently complete application by a local government with an approved program, a copy of the application and all attachments and the local government's decision as to whether the use is one of state or local concern shall be sent to the Administrator.
- (4) Public notice as described in Subsection E, below, will be issued within ten (10) days of receipt of an apparently complete application by the Administrator.
- (5) The permitting body shall evaluate the proposed application pursuant to Subsection F. below, to determine the need for a public hearing.

- (6) The permitting body, pursuant to Subsection H. below, shall either send a draft permit to the applicant for acceptance and signature or send notice of denial to the applicant within thirty (30) days of the giving of public notice or within fifteen (15) days after the closing of the record for a public hearing, if held, whichever is later.
- (7) Public notice or permit decisions shall be given pursuant to E (b) below.
- (8) The applicant, the secretary, any affected local government or affected federal, state, or local agency, any aggrieved person, or any other person adversely affected by a coastal use permit decision may appeal the coastal use permit decision to the commission. An appeal must be filed in writing within thirty days following public notice of the final decision and shall be in accordance with procedures adopted by the commission.

E. Public Notice and Consideration of Public Comment

- (1) Public notice of the receipt of all apparently complete applications for coastal use permits shall be given by:
 - (a) Mailing a brief description of the application along with a statement indicating where a copy of the application may be inspected to any person who has filed a request to be notified of such permit applications and to all affected governmental bodies.
 - (b) By posting or causing to be posted a copy of the application at the location of the proposed use.
 - (c) By sending notice of the application to all appropriate news media in the parish or parishes in which the use would be located, and
 - (d) By causing the publication of notice of the application once in the official journal of the state; or for uses of local concern in parishes with approved local programs, by causing the publication of notice of the application once in the official journal of the parish.
- (2) Notice shall be considered given upon publication in the official journal.
- (3) The notice shall set forth that any comments on the proposed development shall be submitted to the permitting body within twenty-five (25) days from the date of official journal publication of the notice.

- (4) A copy of the application will be sent to any person requesting it upon payment of a reasonable fee to cover costs of copying, handling, and mailing, except that information of a confidential or proprietary nature shall be withheld. In the event that attachments to the application are not readily reproducible, they shall be available for inspection at the permitting office.
- (5) The permitting body shall consider comments received in response to the public notice in its subsequent actions on the permit application. Comments received will be made a part of the official file on the application. If comments received relate to matters within the special expertise of another governmental body, the permitting body may seek advice of that agency. If necessary, the applicant will be given the opportunity to furnish his proposed resolution or rebuttal to all objections from government agencies and other substantive adverse comments before a final decision is made on the application.
- (6) The Administrator shall issue monthly a list of permits issued or denied during the previous month. This list will be distributed to all persons who receive the public notices.

F. Public Hearings on Permit Applications

- (1) A public hearing may be held in connection with the consideration of an application for a new permit and when it is proposed that an existing permit be modified or revoked.
- (2) Any person may request in writing within the comment period specified in the public notice that a public hearing be held to consider material matters at issue in a permit application. Upon receipt of any such request, the permitting body shall determine whether the issues raised are substantial and there is a valid public interest to be served by holding a public hearing.
- (3) Public hearings(s) are appropriate when there is significant public opposition to a proposed use, or there have been requests from legislators or from local governments or other local authorities, or in controversial cases involving significant economic, social, or environmental issues. The Administrator or local government with an approved program has the discretion to require government with an approved program has the discretion to require hearings in any particular case. Failure of the Administrator or local government to hold a hearing on an application may not be appealed to the Coastal Commission.
- (4) If the determination is made to hold a public hearing, the permitting body shall promptly notify the applicant, set a time and place for the hearing, and give public notice.
- (5) If a request for a public hearing has been received, and the decision is made that no hearing will be held, public notice of the decision shall be given.

G. Additional Information

- (1) If an application is found to be incomplete or inaccurate after processing has begun or if it is determined that additional information from the applicant is necessary to assess the application adequately, processing will be stopped pending receipt of the necessary changes or information from the applicant and the processing periods provided for in D(4) or (6) will be interrupted. Upon receipt of the required changes or information, a new processing period will begin.
- (2) If the applicant fails to respond within thirty (30) days to any request or inquiry of the permitting body, the permitting body may advise the applicant that his application will be considered as having been withdrawn unless and until the applicant responds within fifteen (15) days of the day of the letter.

H. Decisions on Permits

- (1) The permitting body will determine whether or not the permit should be issued. Permits shall be issued only for those uses which are consistent with the guidelines, the state program and affected approved local programs. Permit decisions will be made only after a full and fair consideration of all information before the permitting body, and shall represent an appropriate balancing of social, environmental and economic factors. The permitting body shall prepare a short and plain statement explaining the basis for its decision on all applications. This statement shall include the permitting body's conclusions on the conformity of the proposed use with the guidelines, the state program and approved local programs. The statement shall be dated, signed, and included in the record prior to final action on the application.
- (2) If the final decision is to issue the permit, the permitting body will forward two (2) copies of the draft permit to the applicant for his signature accepting the conditions on the permit, along with its findings on the application. The applicant will return both signed copies to the permitting body for signature and dating by the issuing official. If the final decision is to deny the permit, the applicant shall be sent a copy of the statement prepared pursuant to Subsection H (1) above, setting forth the reason(s) for denial.
- (3) Final action on the permit application is the signature of the issuing official on the permit or the mailing of the letter notifying the applicant of the denial.

I. Conditions of Permit

- (1) By accepting the permit, the applicant agrees to:
 - (a) Carry out or perform the use in accordance with the plans and specifications approved by the permitting body.

- (b) Comply with any permit conditions imposed by the permitting body.
 - (c) Adjust, alter, or remove any structure or other physical evidence of the the permitted use if, in the opinion of the permitting boyd, it proves to be beyond the scope of the use as approved or is abandoned.
 - (d) Provide, if required by the permitting body, an acceptable surety bond in an appropriate amount to ensure adjustment, alteration, or removal should the permitting body determine it necessary.
 - (e) Hold and save the State of Louisiana, the local government, the Department, and their officers and employees harmless from any damage to persons or property which might result from the work, activity, or structure permittee.
 - (f) Certify that any permitted construction has been completed in an acceptable and satisfactory manner and in accordance with the plans and specifications approved by the permitting body. The permitting body may, when appropriate, require such certification be given by a registered professional engineer.
- (2) The permitting body shall place such other conditions on the permit as are appropriate to ensure compliance with the coastal management program.

PART IV. Modification, Suspension or Revocation of Permits

A. Modifications

- (1) The terms and conditions of a permit may be modified to allow changes in the permitted use, in the plans and specifications for that use, in the methods by which the use is being implemented, or to assure that the permitted use will be in conformity with the coastal management program. Changes which would significantly increase the impacts of a permitted activity shall be processed as new applications for permits pursuant to Part III, not as a modification.
- (2) A permit may be modified upon request of the permittee:
 - (a) if mutual agreement can be reached on a modification, written notice of the modification will be given to the permittee.
 - (b) if mutual agreement cannot be reached, a permittee's request for a modification shall be considered denied.

B. Suspensions

- (1) The permitting body may suspend a permit upon a finding that:
 - (a) the permittee has failed or refuses to comply with the terms and conditions of the permit or any modifications thereof, or
 - (b) the permittee has submitted false or incomplete information in his application or otherwise, or
 - (c) the permittee has failed or refused to comply with any lawful order or request of the permitting body or the Administrator.
- (2) The permitting body shall notify the permittee in writing that the permit has been suspended and the reasons therefor and order the permittee to cease immediately all previously authorized activities. The notice shall also advise the permittee that he will be given, upon request made within ten (10) days of receipt of the notice, an opportunity to respond to the reasons given for the suspension.
- (3) After consideration of the permittee's response, or, if none, within 30 days after issuance of the notice, the permitting body shall take action to reinstate, modify or revoke the permit and shall notify the permittee of the action taken.

C. Revocation

- (1) If, after compliance with the suspension procedures in Subsection B, above, the permitting body determines that revocation or modification of the permit is warranted, written notice of the revocation or modification shall be given to the permittee.

D. Enforcement

- (1) If the permittee fails to comply with a cease and desist order or the suspension or revocation of a permit, the permitting body shall seek appropriate civil and criminal relief as provided by §213.17 of the Act.

PART V. General Permits

A. General

- (1) If, after compliance with the suspension procedures in Subsection B, above, the permitting body determines that revocation or modification of the permit is warranted, written notice of the revocation or modification shall be given to the permittee.

permit processing unless the Administrator determines, on a case-by-case basis, that the public interest requires full review.

- (2) General permits may be issued only for those uses that are substantially similar in nature, that cause only minimal adverse impacts when performed separately, that will have only minimal adverse cumulative impacts and that otherwise do not impair the fulfillment of the objectives and policies of the coastal management program.

B. Reporting

- (1) Each person desiring to commence work on a use subject to a general permit must give notice to the Administrator and receive written authorization prior to commencing work. Such authorization shall be issued within 30 days of receipt of the notice.
- (2) Such notice shall include:
 - (a) The name and address of the person conducting the use.
 - (b) Such descriptive material, maps and plans as may be required by the Administrator for that general permit.

C. Conditions of General Permits

- (1) The Administrator shall prescribe such conditions for each general permit as may be appropriate.
- (2) A general permit may be revoked if the Administrator determines that such revocation is in the public interest and consistent with the coastal management program.

D. Local General Permits

- (1) A local government with an approved local program may issue general permits for uses of local concern under its jurisdiction pursuant to the above procedures. Such general permits shall be subject to approval by the Secretary.

E. Appeals

- (1) Appeals of decisions on general permits shall be to the Louisiana Coastal Commission pursuant to Part III D(8).

PART VI. Determinations As To Whether Uses Are Of State Concern Or Local Concern

A. Filing of Applications with a Local Government with an approved local coastal program

- (1) The local government shall make the initial determination as to

whether the use is one of state concern or local concern on all applications filed with the local government. This determination shall be based on the criteria set forth in subsection C below.

- (2) The determination and a brief explanation of the rationale behind the determination shall be forwarded to the Administrator within two (2) working days of receipt of the apparently complete application, pursuant to Part III D(4).
- (3) The Administrator shall review the decision and rationale and shall let it stand or reverse it. If the Administrator reverses the local decision, notice, including a brief explanation of the rationale for the reversal shall be sent to the local government within two working days of the application from the local government.
- (4) The appropriate permitting body for the use, as determined by the Administrator, shall thereafter be responsible for the permit review process. The Administrator's determination is binding unless and until reversed by the Coastal Commission.

B. Filing of Application with the Administrator

- (1) Within two (2) working days of the filing of an apparently complete application with the Administrator, the Administrator shall make a determination as to whether the use is one of state concern or local concern based on the criteria set forth in subsection C below. Notice shall be given to affected local programs of the determination whether the use is a use of state or local concern. The Administrator shall give full consideration to program comments or objections to any such determination in making future determinations.

C. Criteria for Determination

- (1) The following factors shall be used in making a determination as to whether a use is of state or local concern.
 - (a) The specific terms of the uses as classified in the Act,
 - (b) The relationship of a proposed use to a particular use classified in the Act.
 - (c) If a use is not predominantly classified as either state or local by the Act or the use overlaps the two classifications, it shall be of local concern unless it:
 1. Is being carried out with state or federal funds.
 2. Involves the use of or has significant impacts on state or federal lands, water bottoms or works.

3. Is mineral or energy development, production or transportation related.
 4. Involves the use of, or has significant impacts, on barrier islands or beaches or any other shoreline which forms part of the baseline for Louisiana's offshore jurisdiction.
 5. Will result in major changes in the quantity or quality of water flow and circulation or in salinity or sediment transport regimes, or
 6. Has significant interparish or interstate impacts.
- (2) For purposes of this subsection, the term "state" shall mean the state of Louisiana, its agencies, and political subdivision; but not local governments, their agencies and political subdivisions.

D. Appeals to the Coastal Commission

- (1) A local government's appeal to the Commission of the Administrator's reversal of its initial determination must be filed within fifteen (150 days of the notice to the local government. The appeal shall be heard with preference and priority at either the next scheduled meeting or within forty-five (45) days of the filing of the appeals, whichever is sooner.
- (2) Upon the filing of such an appeal, processing of the application shall be stopped pending the Commission's decision and the processing period for issuance of the draft permit shall be interrupted. The local government shall give notice of the appeal to the applicant immediately upon filing it.
- (3) The Commission's determination shall be based on the criteria set forth in subsection C. The burden of proof shall be upon the Administrator.
- (4) The Commission's determination shall be rendered within ten (10) days of its hearing. This decision, if not appealed to the courts, becomes binding on that permit application.

PART VII. Determination As To Whether A Coastal Use Permit Is Required

A. Request By Applicant

- (1) Any person who proposes to conduct an activity may submit a request in writing to the Administrator for a formal finding as to whether the proposed activity is a use of state or local concern within the coastal zone subject to the coastal use permitting program. The person making the request shall submit with the request a complete application for a coastal use permit

and shall provide such additional information requested by the Administrator as may be appropriate.

- (2) The requesting party must set forth sufficient facts to support a finding that the proposed activity either:
 - (a) Is exempt from coastal use permitting; or
 - (b) Does not have a direct and significant impact on coastal waters; or
 - (c) Is outside the coastal zone boundary.
- (3) Within 30 days of receipt of the request and the complete application, the requestor shall be sent notice of the decision on the request and public notice of the decision shall be given.

B. Finding Without A Request

- (1) In reviewing a permit application for which no request has been submitted, the Administrator may find after full consideration of the application, likely impacts of the proposed use, comments received, and applicable rules, regulations and guidelines, that a coastal use permit is not required. If he finds that no permit is required, the Administrator shall notify the application and give public notice.
- (2) A local government with an approved program may request that the Administrator review an application for a use of local concern and make a determination as to whether a coastal use permit is required, pursuant to the procedures provided for in Subsection B(1) above. The Administrator shall notify the local government of his decision.

C. Decisions

- (1) Only the Administrator may determine that coastal use permit is not required. A permit shall not be required if the proposed use or activity will not occur within the boundary of the coastal zone, does not have a direct and significant impact on coastal waters, or is exempt from permitting by Part I of these rules or by Section 213.12 (B) or (C), Section 213.13 (A) or Section 213.15 of the Act.
- (2) The notice sent to the requestor or applicant shall include a short and plain statement of the basis for the decision. Public notice of the decision shall be given pursuant to part III, E (6) of these rules.

D. Actions After Decision

- (1) If the determination is that a coastal use permit is required, processing of the application may be commenced or continued pursuant to Part III of these rules.

- (2) If the determination is that a coastal use permit is not required, the requestor or the applicant may proceed to carry out the activity. Provided that the Administrator shall be stopped from subsequently requiring a permit or issuing cease and desist orders if it is found that the activity as implemented is significantly different from that shown on the request or application, does in fact have a direct or significant impact on coastal waters, or otherwise requires a coastal use permit. Other civil or criminal sanctions shall not be available in the absence of fraud, ill practices, deliberate misrepresentation or failure to comply with any cease and desist or other lawful order of the Administrator.

E. Appeal

- (1) The determination shall be subject to appeal to the Coastal Commission pursuant to Part III, D (8) of these rules. The burden of proof shall be on the appellant. In the event of a n appeal of a decision that a permit is required, the processing of the permit application shall be interrupted pending a final decision by the Coastal commission. In the event of an appeal of a decision that a permit is not required, implementation of the use or activity shall be suspended pending a final decision by the Coastal Commission.

APPENDIX c2
RULES AND PROCEDURES FOR THE
DEVELOPMENT, APPROVAL, MODIFICATION, AND
PERIODIC REVIEW OF LOCAL COASTAL MANAGEMENT PROGRAMS

II. Letter of Intent

Parishes intending to apply for grants to prepare a local coastal management program (LCMP) shall notify the Secretary of DNR by sending a letter of intent approved by the parish Police Jury or Council.

III. Program Development

The process for developing a local program will consist of:

- A. A division of the parish's coastal zone into units that have similar environmental and natural resource characteristics (environmental management units) and an identification and mapping of the features, resources and resource users of those units.
- B. An analysis of the projected social and economic growth for the parish. This analysis must include project population growth; projected expansion of economic sectors, estimated demand for the use of land, and an assessment of how these projected changes will affect the natural resources of each management unit as well as the parish as a whole.
- C. An identification of existing and potential resource use conflicts including their location and severity. Identified problems should be mapped to the extent possible.
- D. An identification of particular areas, if any, within the parish requiring special management as a result of their unique natural resource or development potentials.
- E. The development of goals, objectives and policies for the management of the parish's coastal zone. This shall include those goals and objectives applicable to the entire parish coastal zone and specific objectives and priorities of use for each management unit and identified particular area, if any. Except as specified in Subsection IV D below, these policies, objectives and priorities of uses must be consistent with the policies and objectives of Act 361 and the state guidelines.
- F. The development of procedures, providing for the full participation of federal, state, local and municipal governmental bodies and the general public in the development and implementation of the parish program

- G. The development of the necessary authorities, procedures, and administrative arrangements for reviewing, issuing, and monitoring permits for uses of local concern.
- H. The development of special procedures and methods for considering uses within special areas designated pursuant to §213.10 of the Act, if any, and the impacts of uses on the special areas.
- I. The development of special procedures and methods for considering uses of greater than local benefit and uses affecting state or national interests.

III. Program Content

Local programs may be submitted for approval after being developed in accordance with Section II and shall consist of:

- A. A summary of the local program.
- B. Maps and descriptions of the natural features, resources, and existing land use in each management unit. These maps shall depict the division of the coastal areas into coastal waters and wetlands, transitional areas, fastlands and lands more than five feet above mean sea level.
- C. The results of the social and economic analysis carried out pursuant to Section II-B, above.
- D. A description of those existing and future resource-use conflicts identified pursuant to Section II-C, above.
- E. An identification of those particular areas, if any, requiring special management as described in Section II-D above, as well as the special policies and/or procedures to be applied to these areas.
- F.
 - 1) Statement of the goals, objectives, policies and priorities of uses included in the program, as described in Section II-E.
 - 2) A statement assuring that the policies of the local program are consistent with the policies and objectives of Act 361 and the state guidelines and that the local program shall be interpreted and administered consistently with such policies, objectives and guidelines.
- G. A description of the authorities and administration arrangements regulating uses of local concern, for reviewing, issuing, and monitoring local coastal use permits, and for enforcing the local program, including:
 - 1) A concise explanation of how the local programs coastal management process is to work.

- 2) A description and listing of those areas and uses that will normally require local coastal use permits.
- 3) An illustrative list of particular activities which occur either in fastlands or on lands more than five feet above mean sea level that have, or may have, direct and significant impacts on coastal waters.
- 4) An analysis of all ordinances included in the local program demonstrating that the effect of such ordinances, when applied to uses not subject to the local coastal use permit program, would result in compliance with the goals and provisions of Act 361, the objectives of the LCRP, and the policies of the coastal use guidelines.
- 5) A description of the administrative means by which the parish will coordinate with other governmental bodies during program implementation regarding:
 - a) local program implementation, including copies of any interagency or intergovernmental agreements.
 - b) multiparish environmental considerations.
 - c) consideration by the parish or regional, state or national interests, and
 - d) regional, state or national plans affecting the parish coastal zone and other projects affecting more than one parish.
- 6) Certified copies of all ordinances, plans, programs, and regulations proposed to be included in the program,
- 7) A resolution from the governing body of the parish expressing approval of the local program as submitted and its intent to implement the submitted program subsequent to state approval.

H. Documentation that the parish has provided a full opportunity for governmental and public involvement and coordination in the development of the local program. It must be shown that:

1. At least one public hearing was held in the coastal zone on the total scope of the proposed program.
2. Public notice of the availability of the draft proposed program was given at least 30 days prior to the hearing. Copies of the program must have been available for distribution to relevant state, federal and local governmental agencies and the general public and were available for public inspection at reasonable hours at all libraries

within the parish, the offices of the police jury, and the city or town hall of all the municipalities in the coastal zone.

3. Full consideration was given to comments received during program development and the public hearings.

IV. Program Approval

Local programs may be submitted for approval after promulgation of these rules and the state guidelines. The following procedures shall apply:

- A. Fifteen copies of the complete proposed local program shall be submitted to the Secretary. The local government shall have additional copies available for distribution upon request. The Secretary shall, within fifteen days of the filing of a complete program give public notice of the submittal of the proposed local program, of the availability of copies of the program for public review, of the availability of copies of the program for public review and of the date, time and place of a public hearing on the program and request public comment. The Secretary shall give full consideration to all comments received.
- B. The Secretary shall, within ninety days of the giving of public notice, either approve the local program or notify the local government of the specific changes which must be made in order for it to be approved. The Secretary's decision may be appealed to the coastal commission pursuant to Section 213.16 of the Act.
- C. In order to approve the local program, the Secretary must find that:
 - 1) the program is consistent with the state guidelines and with the policies and objectives of the Act.
 - 2) the program submitted for approval contains all the elements required by Section III above and that the materials submitted are accurate and are of sufficient specificity to provide a basis for predictable implementation of the program.
 - 3) that the proposed program, and the policies, objectives, and priorities of use in the program, are of a sufficient comprehensiveness and specificity to address the identified resource-use conflicts and are consistent with the goals of the Act, the objectives of the LCRP, and the policies of the coastal use guidelines.
 - 4) Full opportunity has been provided for federal, state, local and municipal governmental bodies and the general public to participate in the development of the program pursuant to Section III-H above.

- 5) The local government has included within the program all applicable ordinances and regulatory or management programs which affect the coastal zone; that these authorities are of sufficient scope and specificity to regulate uses of local concern; that the regulatory program meets all requirements for procedures and time frames established by the Act and regulations of the Department; that sufficient authority is provided to enforce the local program, including provisions for those penalties provided by §213.17 of the act, and that the program has met all substantive requirements of the Act and the regulations adopted pursuant thereto.
- D. In reviewing a local program for consistency with the state guidelines the Secretary, acting jointly with the Secretaries of the Department of Natural Resources and the Department of Wildlife and Fisheries, may make reasonable interpretations of the state guidelines, insofar as they affect that particular program, which are necessary because of local environmental condition or user practices. Local programs that may be inconsistent in part with the state guidelines may be approved notwithstanding the conflicts if the Secretaries find that:
- a) the local environmental conditions and/or user practices are justified in light of the goals of Act 361, the objectives for the LCRP, and the policies of the state guidelines.
 - b) approval would result in only minimal and inconsequential variance from the objectives and policies of the Act and the guidelines; and
 - c) the local program provides special methods to assure that the conflicts remain minimal and inconsequential.
- E. The local program shall become effective when approved by the Secretary, or the Coastal Commission on appeal, and is officially adopted by the local government.

V. Modifications

- A. Any significant proposed alteration or modification to an approved local program shall be submitted to the Secretary for review and approval along with the following:
1. A detailed description of the proposed change;
 2. If appropriate, maps of sufficient scale and detail depicting geographically how the program would be changed;
 3. An explanation of how the proposed change would better accommodate local conditions and better serve to achieve the objectives of the state program and the local program;

4. A resolution from the local government expressing approval of the modification as submitted and its intent to implement the change subsequent to state approval;
 5. All parish ordinances relevant to the proposed modification;
 6. Any comments from governmental units that may be affected by the proposed modification;
 7. The record for the public hearing on the proposed modification, including any written testimony or comments received; and
 8. Documentation that the parish has provided a full opportunity for governmental and public involvement in the development of the proposed modification.
- B. Significant alterations or modifications shall be reviewed and approved pursuant to Section, II, III and IV above. They must be consistent with the guidelines and the state program and meet all pertinent substantive and procedural requirements
- C. An alteration or modification shall become effective when approved by the Secretary and officially adopted by the local government. If a proposed alteration or modification is not approved, the provisions of the previously approved program shall remain in effect unless specifically rejected by the governing body of the Parish.

IV. Periodic Review of Programs

- A. Local governments shall submit an annual report on the activities of an approved local program. This annual report shall include:
1. The number type, and characteristics of applications for coastal use and other permits.
 2. The number type, and characteristics of coastal use and other permits granted, conditioned, denied, and withdrawn.
 3. The number type, and characteristics of permits appealed to the coastal commission or the courts.
 4. Results of any appeals.
 5. A record of all variances granted.
 6. A record of any enforcement actions taken.
 7. A description of any problem areas within the state or local program and proposed solutions to any such problems.

8. Proposed changes in the state or local program.
- B. The administrator shall from time to time, and at least every two years, review the approved local programs to determine the extent to which the implementation of the local program is consistent with and achieving the objectives of the state and local programs.
 - C. Should the Secretary determine that any part of the local program is not consistent with the state program or is not achieving its stated objectives or is not effective, he shall notify the local government and recommend changes and modifications which will assure consistency with, and achievement of, the objectives of the overall coastal program or improve the efficiency and effectiveness of the local program.
 - D. If the local government fails to give official assurance within one month after receipt of the Secretary's notice that it intends to modify the local program in a timely manner to conform to these recommendations, or thereafter fails to make the necessary changes within 3 months, the Secretary may, after public notice, revoke approval of the local program. In such an event the local government shall no longer have the authority to permit uses of local concern or otherwise carry out the functions of an approved program and will lose eligibility to receive management funds other than those funds appropriate and necessary to make the necessary changes. If and when the Secretary determines that the local program has been appropriately modified to meet his recommendations, pursuant to Section III above, he may, after public notice, reinstate approval.

VII. Funding of Local Programs

- A. All funds provided to local governments by the Department for the program development or implementation shall be subject to the following:
 1. Any state or federal funds provided to local governments for development or implementation of approved local program shall be by contract with the Department. Any such financial assistance shall be subject to these rules and any applicable federal requirements.
 2. Such financial assistance shall be on a matching fund basis. The required local match shall be determined by the Administrator.
 3. Eligibility of a local government for such financial assistance shall be determined by the Administrator pursuant to these rules and the contractual requirements of the Department.

4. Local programs shall receive an equitable share of the total federal money received by the Department from the Office of Coastal Zone Management for Section 306 implementation.
- A. Planning and Development Assistance funding shall be subject to the following:
1. Funding for planning and development of local programs shall be available. The level of such funding shall be at the discretion of the Administrator and as provided for herein. A base level of funding will be made available to each parish in the coastal zone which does not have an approved program. Any unutilized allocated funds will be available for use by other parishes at the discretion of the Administrator for special planning and development projects.
 2. To be eligible to continue receiving planning and development assistance, the local government must be making substantial progress toward finalization of an approvable local program.
 3. Planning and development funds may only be used to plan for and develop those elements of a local program required by Parts II and III of these rules and the Act.
 4. Planning and development assistance will be provided by the Department for two years from the date of federal approval of the state program or until a parish receives an approved local program, whichever is sooner.
- B. The Department will make funds available to local governments for costs incurred in applying for approval from the Department, including printing and advertising, holding required public hearings and making copies of the local program available to governmental bodies and the general public.
- C. Implementation Assistance funding shall be subject to the following:
1. Funding for implementation of a local program shall be available after approval of the local program by the Department. A local program shall be eligible for such assistance only so long as it continues to be an approved program.
 2. The Administrator shall establish and modify, as appropriate, a reasonable allocation formula utilizing objective criteria regarding the coastal zone of the parish, including:
 - a. Population
 - b. Total Surface Area

- c. Wetland Area
 - d. Number of Permits
 - e. Length of interface between urban and agricultural areas and wetland areas.
- 3. Each parish with an approved program shall be assured of a base level of funding, with additional funding based upon the allocation formula. Any unutilized implementation funds will be available, at the discretion of the Administrator, for use by other parishes for special planning, implementation or management projects.
 - 4. Implementation funds may only be used to implement the approved local program, carry out planning for or development of approvable alterations or modifications in the local program, and to update or revise the data base utilized by the local program.

VIII. Written Findings

- A. All findings and determinations required by these rules shall be in writing and made part of the record.

APPENDIX c3
PUBLIC HEARINGS

B. Scope

This regulation is applicable to all public hearings held pursuant to Act 361 of the 1978 Legislature except those held by the Louisiana Coastal Commission. All such public hearings shall be non-adjudicatory public proceedings conducted for the purpose of acquiring information or evidence which will be considered in evaluating a proposed action which affords to the public the opportunity to present their views and opinions on such action.

C. Public Notice

- (1) Public notice shall be given at least thirty (30) days in advance of any public hearings. Notice shall be sent to all persons requesting notices of public hearings and shall be posted in all governmental bodies having an interest in the subject matter of the hearing. Such notice may be limited in area consistent with the nature of the hearing.
- (2) The notice shall contain the time, place, and nature of hearing; and the location of materials available for public inspection.

C. Time and Place

In fixing the time and place for a hearing, due regard shall be had for the convenience and necessity of the interested public.

D. Presiding Officer

- (1) The governmental body holding the hearing shall designate a staff member to serve as Presiding Officer. In cases of unusual interest the Administrator shall have the power to appoint such person as he deems appropriate to serve as the Presiding Officer.
- (2) The Presiding Officer shall establish a hearing file consisting of such material as may be relevant or pertinent to the subject matter of the hearing. The hearing file shall be available for public inspection.

E. Representation

At the public hearing, any person may appear on his own behalf, or may be represented by counsel or by other representatives.

F. Conduct of Hearings

- (1) Hearings shall be conducted by the Presiding Officer in an orderly but expeditious manner. Any person shall be permitted to submit oral or written statements concerning the subject matter or the appropriate decision. Written statements may be presented any time prior to the time the hearing file is closed. The Presiding Officer may afford participants an opportunity for rebuttal.
- (2) The Presiding Officer shall have discretion to establish reasonable limits upon the time allowed for statement of witnesses, for arguments of parties or their counsel or representatives, and upon the number of rebuttals.
- (3) Cross-examination of witnesses shall not be permitted.
- (4) All public hearings shall be recorded verbatim. Copies of the transcript will be available for public inspection and purchase at the office of the Administrator.
- (5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, subject to exclusion for reasons of redundancy, be received in evidence and shall constitute a part of the hearing file.
- (6) The hearing file shall remain open for a period of ten (10) days after the close of the public hearing for submission of written comments or other materials. This time period may be extended for good cause.
- (7) In appropriate cases, joint public hearings may be held with other state, federal or local agencies, provided the procedures of those hearings are generally consistent with the requirements of this regulation.
- (8) The procedures in subparagraphs (4) and (6) of this Section may be waived by the Presiding Officer in appropriate cases.

G. Filing of Transcript of the Public Hearing

The testimony and all evidence received at the public hearing shall be made part of the administrative record of the action. All matters discussed at the public hearing shall be fully considered in arriving at the decision or recommendation. Where a person other than the primary decision making official serves as Presiding Officer, such person shall submit a report summarizing the testimony and evidence received at the hearing to the primary decision making official for consideration.

APPENDIX c4
SPECIAL AREAS

A. General

This section shall establish procedures for the designation, utilization and management of special areas and for establishing guidelines and priorities of uses for each area.

B. Nominations

- (1) An area may be nominated for designation as a special area by any person, local government, state agency or the Administrator.
- (2) Areas may be nominated for any of the purposes set forth in §213.8A of the Act, or for similar purposes, provided that such areas:
 - (a) are in the coastal zone;
 - (b) have unique and valuable characteristics;
 - (c) require special management procedures different from the normal coastal management process; and
 - (d) are to be managed for a purpose of regional, state, or national importance.
- (3) Nominations shall consist of:
 - (a) A statement regarding the area nominated; including, for example, its unique and valuable characteristics; its existing uses; the environmental setting; its history; and the surrounding area.
 - (b) A statement of the reasons for the nomination; such as any problems needing correction, anticipated results, need for special management, and need for protection or development.
 - (c) A statement of the social, economic, and environmental impacts of the nomination.
 - (d) A map showing the area nominated.
 - (e) A statement as to why the area nominated was delineated as proposed and not greater or lesser in size or not in another location.

- (f) Proposed guidelines and procedures for management of the area, including priorities of uses.
- (g) An explanation of how and why the proposed management program would achieve the desired results.
- (h) A statement as to how and why the designation of the area would be consistent with the state coastal management program and any affected local programs.
- (i) A statement as to why and how the designation would be in the best interest of the state.

C. Administrative Review

- (1) The Administrator shall review proposals for their suitability and consistency with the coastal management program.
- (2) If he finds that a proposal is suitable and consistent with the coastal management program, the Administrator may, with the advice and assistance of affected local programs, prepare a draft "Proposal for a Special Area". The proposal shall consist of the delineation of the area to be designated, the guidelines and procedures for management, and priorities of uses.
- (3) Public notice announcing a public hearing on the proposal shall be given and published in a newspaper of general circulation in the Administrator upon request and copies shall be made available for public review at the offices of the Administrator, office of local programs, and at public libraries in affected parishes. Notice and copies of the proposals shall be sent to appropriate governmental bodies.
- (4) After the public hearing and consideration of all comments received at or before the hearings, the Administrator shall determine whether to designate the area proposed, or a part of it or an approximately similar area, and adopt the guidelines and procedures for management and priorities of uses. Public notice of the Administrator's decision shall be given.
- (5) The Administrator shall notify the Commission of a decision to designate an area. The Commission may approve or disapprove all or any of the guidelines or priorities of uses adopted by the Administrator, provided that the only grounds for disapproval shall be those set forth in §213.16C of the Act. Failure of the Commission to disapprove the guidelines or priorities of uses within sixty (60) days shall be deemed approval. In making such approval, the Commission must submit detailed findings and objections to the Administrator.
- (6) In the event the Administrator and the Commission are unable to agree on a set of guidelines and priorities of uses, final resolution shall be by the Governor.

D. Gubernatorial Establishment

The Governor may, with approval of the Commission pursuant to Subsection c(5) above, designate special areas, and establish the guidelines and procedures for management and priorities of uses applicable in such areas.

E. Establishment of Special Area

- (1) If the state coastal zone program has not yet received federal approval, the special area designation and its management program shall go into effect upon the order of the Governor. If the coastal zone program has been federally approved, the special area designation and its management program shall go into effect after federal approval of the special area as an element or amendment of the state's coastal zone program.

APPENDIX c5
PROCEDURAL RULES FOR THE HEARING OF APPEALS BY
THE LOUISIANA COASTAL COMMISSION

A. Meetings

1. The Commission shall meet on the second Tuesday of each month at 10:00 A.M. or upon the call of the chairman.
2. A quorum shall consist of twelve members and a majority vote of the membership of the commission is required to reverse or modify any lower administrative decision. Failure to have a quorum at the time any vote is taken will invalidate any such votes.
3. All meetings of the Commission shall be open to the public and the public shall have a reasonable opportunity to be heard. The Commission may from time to time impose reasonable restrictions on public testimony as may be appropriate.

B. Notice of Appeals

1. All appeals must be filed within 30 days of the giving of public notice regarding the decision at issue, except that appeals regarding the Administrator's decisions as to whether uses are of state concern or local concern shall be filed within 10 days of the giving of notice to the local government.
2. A petition for appeal must be filed with the Commission and service made on the applicant, the Administrator and affected local governments. Upon the filing of a petition for appeal, the Commission shall assign a docket number to the proceeding and thenceforth all pleadings, notices, and other documents must bear that docket number.
3. The petition of appeal must be filed in quadruplicate and set forth the application number, the date of decision, the decision, and the grounds for appeal. Appellant must specify the grounds for appeal, with appropriate citations to the rules, the Act and/or prior decisions.
4. Within seven days of receipt of a proper petition for appeal, the Commission shall give public notice of a public hearing on the appeal. The hearing is to be held within thirty-five days of the giving of public notice. Such public notice shall be given by publication in the state journal and in the parish journal in the parishes in which the use is proposed to occur, and by sending copies to all requesting persons, all persons on the administrator's mailing list for notices of applications, the applicant, the appellee, the Secretary, the Administrator and any affected local governments.

5. The public notice shall include:
- a) A statement of the time, place and nature of the hearing;
 - b) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c) A reference to the particular section (s) of the statute, guidelines and rules involved;
 - d) A short and plain statement of the matters asserted.
 - e) If the Commission is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.
 - f) A reference to where further information on the appeal may be obtained.

C. Pleadings

1. All petitions for appeal, answers, briefs, memoranda, motions, or other pleadings shall be on white paper, 8 1/2" x 11" in size. All such pleadings shall be filed in quadruplicate.
2. All pleadings shall have the following format:

Appeal of (name of applicant)

Louisiana Coastal Commission

(Action Being Appealed) _____

(Style of Pleading)

1. _____

2 _____

Appellant or Attorney

3. The body of the pleading shall consist of numbered paragraphs which state the facts, law and arguments which form the basis for the pleading.

4. All pleadings shall be in writing and signed by the party or his attorney.

D. Pre-hearing Procedures, Discovery, Simplification of Issues

1. Appellant must file a brief or memorandum setting forth the facts, law and arguments upon which he is to rely in his appeal at least fifteen days prior to the public hearing. Appellees, intervenors and amicus curiae shall file the oppositions or memoranda of support which set forth facts, law and arguments upon which they are to rely prior to the hearing.
2. At least three days prior to the public hearing, all parties shall mutually exchange exhibits, documentary evidence and offerings, lists of proposed witnesses, a statement of the substance of facts and opinions to which each witness will testify, copies of any written reports prepared by the witness regarding the matter at issue, and an explanation of the basis for each party's position on the parties may agree to further exchanges of information or other discovery. In the absence of a showing of good cause for the failure to have complied with the above requirements, only those witnesses named on the lists exchanged will be permitted to testify on behalf of a party, and any materials not exchanged may not be offered or received in evidence.
3. The Commission staff may in its discretion, or upon request of any party, require the holding of a prehearing conference. All parties to the appeal shall appear at the specified time and place to consider:
 - a) simplification of issues
 - b) amendments to pleadings
 - c) possibility of stipulations, admissions of facts or documents
 - d) limitations on witnesses
 - e) such other matters as may be pertinent
4. If a prehearing conference is held, the Commission staff shall issue an order setting forth the actions having taken place at the conference. This order shall control the subsequent course of the proceedings unless modified by further order for good cause, and shall be binding on all parties whether present at the conference or not.

E. Subpoenas

1. The Commission and authorized staff members shall have power to sign

and issue subpoenas in the name of the Commission requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the Commission a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the Commission only to provide an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness as may be fixed by the Commission with reference to the value of the time employed and the degrees of learning or skill required. Whenever any person summoned under this subsection neglects or refuses to obey such summons, or to produce papers, records or other data, or give testimony, as required, the Commission may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt.

2. Records and documents, in the possession of any agency of the State of Louisiana, or of any officer or employee thereof, including any written conclusion drawn therefrom, which are deemed confidential and privileged shall not be subject to subpoena by any person. Such records or documents shall only include any private contracts, geological and geophysical information and data, trade secrets and commercial or financial data, which are obtained by an agency through a voluntary agreement between the agency and any person, which said records and documents are designated as confidential and privileged by the parties when obtained, or records and documents which are specifically exempt from disclosure by statute.
3. Any party may designate records or documents deemed to be trade secrets, commercial or financial data as confidential and privileged, and the Commission shall provide that such records or documents are confidential and privileged when such records or documents are subpoenaed.

F. Evidence

1. The Commission shall have the power to administer oaths and affirmations.
2. The Commission may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable, prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. The Commission shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made by parties and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received

is not timely, or

is moot.

order shall be subject to rehearing, reopening, or by the Commission within ten days from the date of the grounds for such action shall be either that:

as discovered since the hearing evidence important to which he could not have with due diligence obtained during the hearing;

showing that issues not previously considered ought in order to properly dispose of the matter; or

Other good ground for further consideration or the the evidence in the public interest.

f a party for rehearing, reconsideration, or review, of the Commission granting it, shall set forth the justify such action. Nothing in this Section shall ing, reopening or reconsideration of a matter on the d practiced by the prevailing party, ill practices, of the order by perjured testimony or fictitious hearing shall be confined to those grounds upon which ation, reopening, or rehearing was ordered. If an

Rehearing shall be timely filed, the period within Review must be sought, shall run from the final dis- application.

an appeal heard by the Commission shall include:

gs, motions, intermediate rulings;

received or a resume' thereof if not transcribed;

of matters officially noticed;

proof, objections, and rulings thereon;

indings and exceptions;

on, opinion, or report by the officer presiding at

g.

2. The Commission shall make a full transcript of all proceedings before it, and shall, at the request of any party or person, have prepared and furnish him with a copy of the transcript or any part thereof upon payment of the cost thereof.

L. Ex Parte Consultations and Recusation

1. Unless required for the disposition of ex parte matters authorized by law, members of the Commission shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any party or his representative, or with any officer, employee, or agent engaged in the performance of investigative, prosecuting, or advocating functions, except upon notice and opportunity for all parties to participate.
2. A Commission member shall withdraw from any proceeding in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of a member on the ground of his inability to give a fair and impartial hearing by filing an affidavit promptly upon discovery of the alleged disqualification stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the remaining members of the Commission, if a quorum. Upon the disqualification of a member of the Commission and his alternate, a member pro-tem appointed by the appropriate appointing authority may sit in place of the disqualified member in that proceeding. In further action, after the disqualification of a member of the Commission, the provisions of R.S. 49:957 shall apply.

M. Continuances

Extensions of time for the rendering of decisions shall be granted by the Commission only upon the request or agreement of the appellant. No more than two extensions of not more than thirty-one days each shall be granted.

N. Service of Pleadings and Orders

1. The Commission shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served or caused to be served by the person filing it.
2. All papers served by either the Commission or any party shall be served upon all representatives of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any representative entering an appearance subsequent to the initiation of the proceeding shall notify all other representatives then of record and all parties not represented of such fact.

3. Final orders, decisions, and any other papers required to be served by the Commission upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to representatives of record. Public notice of final orders and decisions shall be given by publication in the state journal, appropriate parish journals and by inclusion in the administrator's normal mailing process.
4. Method of Service. Service of papers shall be made personally, by certified return receipt requested first class mail, or telegraph.
5. When Service Complete. Service upon parties shall be regarded as complete: by certified return receipt requested mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid.
6. Filing with Commission. Papers required to be filed with the Commission shall be deemed filed upon actual receipt by the Commission at the Commission's office.

O. Parties and Intervention

1. The appellant and the person or governmental body whose decision is being appealed shall be parties.
2. The administrator, the Secretary, the Attorney General, the Secretaries of the Department of Natural Resources and the Department of Wildlife and Fisheries, affected local government with an approved local program and the applicant for the coastal use permit at issue, as appropriate, shall have the right to intervene as parties.
3. Any other person having standing to appeal the lower administrative decision at issue may be permitted by the Commission to intervene as parties. Intervention shall be freely granted provided the proper petition for intervention is timely filed and such intervention is not likely to create an undue broadening of the issue or otherwise unduly impede the resolution of the appeal.
4. Petitions for intervention shall be filed with the Commission at least ten (10) days prior to the public hearing and copies served on all parties. Oppositions by parties to an intervention must be filed with the Commission and served on all parties and intervenors prior to the hearing.
5. Persons filing proper petitions for intervention shall be considered a party for discovery, exchanges of information, pre-hearing conferences, service of pleadings, and other such purposes until the Commission has an opportunity to hear the matter.
6. The Commission shall rule on a petition to intervene on the record at the public hearing prior to the consideration of the appeal at issue. If requested by the intervenor or a party, such ruling shall be in writing.

7. A petition for intervention shall set out the reasons why petitioner desires to intervene, give the substance of what petitioner would try to show regarding the appeal at the public hearing, and how petitioner is affected by the appeal at issue.

APPENDIX c6 DEFINITIONS

Definitions

When used in the regulations of the Louisiana Coastal Resources Program, the following words shall have the indicated meanings unless the context clearly indicates otherwise:

- (1) Act: Act 361 of the 1978 Louisiana Legislature, as amended, La. R.S. 49:213.1-213.21.
- (2) Administrator: The Administrator of the Coastal Management Section within the Louisiana Department of Natural Resources.
- (3) After-the-Fact Permit: A coastal use permit which is issued after the commencement of a use. Such a permit may only be issued after all legal issues resulting from the commencement of a use without a coastal use permit have been released.
- (4) Approved Local Program: A local coastal management program which has been and continues to be approved by the Secretary pursuant to §213.9 of the Act.
- (5) Coastal Use Permit: A permit required by §213.11 of the Act. The term does not mean or refer to, and is in addition to, any other permit or approval required or established pursuant to any other constitutional provision or statute.
- (6) Coastal Waters: Those bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone which have measurable seawater content (under normal weather conditions over a period of years.)
- (7) Coastal Zone: The term "coastal zone" shall have the same definition as provided in Section 213.2(4) of the Act.
- (8) Commission: The Louisiana Coastal Commission.
- (9) Contaminant: An element causing pollution of the environment that would have detrimental effects on air or water quality or on native floral or faunal species.

- (10) Cumulative Impacts: Impacts increasing in significance due to the collective effects of a number of activities.
- (11) Department: The Department of Natural Resources.
- (12) Direct and Significant Impact: An impact which is a direct and significant modification or alteration in the physical or biological characteristics of coastal waters which results from an action or series of actions caused by man.
- (13) Endangered Species: Any species which is in danger of extinction throughout all or a significant portion of its range.
- (14) Expectable Adverse Conditions: Natural or man-made hazardous conditions which can be expected or predicted to occur at regular intervals. Included are such events as 125 mile per hour hurricanes and associated tides, 100 year floods and reasonably probable accidents.
- (15) Fastlands: Lands surrounded by publicly owned, maintained, or otherwise validly existing levees or natural formations as of January 1, 1979, or as may be lawfully constructed in the future, which levees or natural formations would normally prevent activities, not to include the pumping of water for drainage purposes, within the surrounded area from having direct and significant impacts on coastal waters.
- (16) Governmental Body: Any public department, agency, bureau, authority, or subdivision of the government of the United States or the State of Louisiana and shall include parishes and municipalities and subdivisions thereof and those governmental agencies constitutionally established.
- (17) Guidelines: Those rules and regulations adopted pursuant to §213.8 of the Act.
- (18) Habitat: The natural environment where a plant or animal population lives.
- (19) Infrastructure: Those systems which provide needed support for human social institutions and developments, including transportation systems, public utilities, water and sewerage systems, communications, educational facilities, health services, law enforcement and emergency preparedness.
- (20) In-lieu Permit: Those permits issued in-lieu of coastal use permits pursuant to §21312(b) and (c) of the Act.
- (21) Local Government: A governmental body having general jurisdiction and operating at the parish level.
- (22) Local Program: Same as "Approved Local Program".

- (23) Marsh: Wetlands subject to frequent inundation in which the dominant vegetation consists of reeds, sedges, grasses, cattails and other low growth.
- (24) Particular Areas: Areas within the coastal zone of a parish with an approved local program which have unique and valuable characteristics requiring special management procedures. Such areas shall be identified, designated, and managed by the local government following procedures consistent with those for Special Areas.
- (25) Permit: A coastal use permit, or an in-lieu permit.
- (26) Permitting Body: Either the Department of Natural Resources or a local government with an approved local program with authority to issue, or that has issued, a coastal use permit authorized by the Act.
- Person: Any individual, partnership, association, trust, corporation, public agency or authority, or governmental body.
- (28) Public Hearing: A hearing announced to the public at least 30 days in advance, at which all interested persons shall be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing. At the time of the announcement of the public hearing all materials pertinent to the hearing, including documents, studies, and other data, in the possession of the party calling the hearing, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the party which conducted the hearing.
- (29) Secretary: The Secretary of the Department of Natural Resources.
- (30) Toxic Substances: Those substances which, by their chemical, biological or radioactive properties, have the potential to endanger human health or other living organisms or ecosystems, by means of acute or chronic adverse effects, including poisoning, mutagenic, teratogenic, or carcinogenic effect.
- (31) Uplands: Lands five feet or more above sea level, fastlands, or all lands outside the coastal zone.
- (32) Use: Any use or activity within the coastal zone which has a direct and significant impact on coastal waters.
- (33) Waste: Any material for which no use or reuse is intended and which is to be discarded.
- (34) Wetlands: Open water areas or areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions.

APPENDIX d
SHORELINE ACCESS AND PROTECTION

II) INTRODUCTION

Section 305 (b)(7) of the CZMA requires a planning process for access to and protection of public beaches and other public coastal areas. The process developed by the state must include the factors listed in Section 923.24 of the federal program approval regulations. These are:

- A procedure for assessing public beaches and other public areas requiring access or protection; and a description of appropriate types of access and protection.
- A broad definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological or cultural value.
- An identification and description of legal authorities, enforceable policies, funding programs and other techniques that can be used to meet management needs.

B) HISTORICAL SITUATION

With its many bays, coastal lakes and marshes, Louisiana has a tremendous amount of shoreline. The coast is as diverse as it is long, featuring sandy beaches, marshes, swamps, barrier islands and historic sites. There is a great potential for public recreation along the coast, but this potential has not been fully realized for several reasons.

One reason for the underutilization of beaches in Louisiana is the extent of the coastal wetlands which, following the shore, reach ninety miles inland rendering landward access difficult. Another factor hindering public access to and use of the shore is the development of camps or vacation homes. These second homes present two problems:

- Residential developments may directly block landward access to the shore.
- Camps are often abandoned and left to deteriorate in the water or on the beach or shore.

Other general factors which have limited shoreline access and facilities follow:

- The Louisiana coastal shore is not utilized as much for more intensive outdoor recreational pursuits (i.e., swimming, camping...) As for hunting...
- Topography has dictated a reliance on water access, hence the great number of boat launches. However, currently available boat ramps are not adequate to meet demands on use or location.
- There is a lack of bathing beaches and beach facilities and a great demand for such areas.
- Of the many sites along the coast, few are developed to their full recreational potential.
- Due primarily to terrain, certain coastal areas are underutilized, shifting recreational use to more suitable areas.

C) REQUIREMENTS

1) Procedure for Assessing public Areas Requiring Access or Protection

The LCRP has inventoried existing and potential sites for beach and shoreline access and recreation. The Louisiana Shorefront Access Plan, a study conducted during development of the LCRP, contains maps and other information concerning existing, potential, and recommended sites for shoreline access. Figure d-1 lists and maps existing recreation sites and access points.

The LCRP will continue to assess areas for public access and recreation based on the following consideration: the need and priority of islands; the provision of increased physical and visual access; the natural and cultural features; the needs of urban residents; and the present supply versus future demand for public facilities. In the continuing assessment of the need for shoreline protection the following elements have been and will be considered; environmental, esthetic and ecological preservation; the protection of areas for public uses and the preservation of islands. Furthermore beaches and barrier islands are specifically mentioned as areas that may be designated special (Section 213.10(A)).

Local programs are expected to contain an assessment of public recreational areas along the shoreline and their patterns of use. Financial and technical assistance by the Secretary of DNR to other state agencies and local governments for shoreline access and protection is also available under Section 213.10(E) of Act 361, which provides for such assistance in managing specific sites in the coastal zone.

2) Definition of "Beach"

In Louisiana, the seashore, i.e., the area of land along the coast which lies between low water and mean high water, is publicly owned and available for public use. Such state ownership and public use of

seashore: also applies to the shores of water bodies referred to as “arms of the sea”. A body of water is considered an arm of the sea if it is located in the immediate vicinity of the open coast and is directly overflowed by the tides.

3) Enforceable Policies, Legal Authorities Funding Programs and Other Techniques for Shorefront Access and Protection

Act 361 recognizes shorefront areas and beaches as valuable features and directs that ways should be provided to enhance opportunities for their use and enjoyment for recreation (see Section 213.8 (c)(4)(10)). Specific state policy on shoreline access is expressed in several other sections of the coastal use guidelines:

- Guideline 1.3(i) states that proximity to beaches and likely impacts on them are considered in evaluating all proposed activities, to the extent allowed by the specific guidelines.
- Guideline 1.3 (n) provides for consideration of the effects of a proposed project on navigation, fishing, public access, and recreational opportunities.
- Guideline 1.4 (e and g) states that in siting of any facility on a shoreline or beach, any adverse alteration or destruction should be avoided or minimized.
- Guideline 1.6 states that all uses should be conducted to permit multiple uses including recreation.
- Guideline 3.8 states that “linear facilities involving dredging shall not traverse beaches, tidal passes, protective reefs of other natural gulf shorelines unless no other alternative exists”.
- Guideline 5.2 directs that “shoreline modification structures shall be designed and built using best practical techniques to minimize adverse environmental impacts” to prevent loss of the shoreline.
- Guideline 6.8 states “surface alterations which have high adverse impacts on natural functions shall not occur to the maximum extent practicable, on barrier islands and beaches, isolated cheniers, isolated natural ridges or levees, or in wildlife and aquatic species breeding or spawning areas, or in important migratory routes”.

Funding for recreation and natural preservation projects is available for the planning, design, land acquisition, construction, management, promotion and technical assistance related to such projects. The following is a brief description of possible funding sources, including both federal and state funding sources:

- First Use Tax (See Appendix e)

- The Heritage Conservation and Recreation Service of the U.S. Department of the Interior is a prime source of funding for public shorefront access planning and development. Grants for acquisition and development of public outdoor recreation projects may be used for boat launches, picnic areas, camp grounds and support facilities such as roads, water supply, etc. Generally priority for such grants is given to projects serving urban populations. These grants provide 50 percent of the cost of acquisition and development. There is also a joint HCRS/OCZM urban waterfront revitalization demonstration grant program.
- The Heritage Conservation and Recreation Service administers the Historic Preservation Act, Public Law 89-665, which provides up to 70 percent matching funds to states and local governments for the purpose of acquisition, preservation and development of historic sites. This source of funding is particularly appropriate for the forts along the Louisiana gulf coast.
- The Coastal Energy Impact Program (CEIP), administered in Louisiana by the Department of Natural Resources, provides grants and loans to accommodate growth and other impacts from new and expanded coastal energy activities. Grants for recreational projects (100 percent) are given a high priority. Since the impacts of oil and gas exploration and production are evident in most areas of the coastal zone, this program is a particularly appropriate funding source.
- The Soil Conservation Service (SCS) of the U.S. Department of Agriculture has the authority, through local soil and water conservation districts, to assist in recreation area development and in the planning and application of conservation practices. Assistance applicable to shorefront recreational planning development includes recreation area development, access roads, protection for heavy use areas, park and lake construction, management of wildlife wetland habitats, and grading and shaping of recreation land.
- The Watershed protection and Flood Prevention Act of 1954 gives the SCS authority to provide technical and financial assistance for projects involving public water based recreation is available and all installation costs are eligible for loans. That act also authorized reimbursable advances for preservation sites.
- The U.S. Army Corps of Engineers, under the Federal Water Project Recreation Act of 1965 (Public Law 89-72) may fund up to 50 percent of the separate costs for recreation facility development at a water resource development project location. The local sponsors of the project must agree to operate, maintain and replace the constructed facilities when needed. It should be noted that due to a recent decision (May, 1978) the cost of lands donated to the Corps for recreational development may not be considered as part of the 50 percent share of local project sponsors.

- The Federal Highway Administration appropriates funds to the State Office of Highways for highway construction and improvements. Providing access to the state's scenic and recreational areas is an important aspect of this program. These funds may also be used for recreational use of rights-of-way, corridors, small parks, and the designing, planning and construction of access ramps to public boat launching areas from highway bridges. In urban areas, bicycle and pedestrian facilities projects may be eligible for funding on a 70-30 percent matching fund basis.
- The Louisiana Department of Wildlife and Fisheries is responsible for the management and protection of wildlife and fish resources in the state. Providing outdoor recreational opportunities such as boat launches, adequate access and facility construction are part of the duties of the Department of Wildlife and Fisheries.
- Another possible source of funding is through the Department of Housing and Urban Development in the form of community Development Block Grants. Assistance from the grant may be used for the acquisition of real property; for the provision of recreation; conservation of open space, scenic areas or natural resources; and the installation or construction of public works and related facilities. In order to obtain a Community Development Block Grant, a summary three-year plan which identifies community needs and methods to meet the needs must be supplied by the applicant.
- The Louisiana Office of Tourism and Promotion assists designated "tourist promotion agencies" with matching funds for approved projects. Applications are submitted to the appropriate Economic Development District by local tourist promotion agencies.
- The Economic Development Administration (EDA) of the U.S. Department of Commerce provides up to 80 percent funding for public works facilities construction. To be eligible for such funding, the project must respond to a local economic need, since EDA's mandate is specifically concerned with economic development and aiding and encouraging employment.

Chart

EXISTING PUBLIC SHOREFRONT RECREATION SITES AND ACCESS ROUTES

MAP

APPENDIX e
ENERGY FACILITY PLANNING PROCESS

A) INTRODUCTION

Section 305(b)(8) of the CZMA requires that the state develop a planning process which is capable of anticipating and managing the impacts from energy facilities in or affecting a state's coastal zone. This process must include the following elements (15 C.F.R.. Section 923.13):

1. "Identification of energy facilities which are likely to locate in, or which may significantly affect, a state's coastal zone;
2. Procedures for assessing the suitability of sites for such facilities. This assessment procedure shall be designed to evaluate, to the extent practicable, the costs and benefits of proposed and alternative sites in terms of state and national interests as well as local concerns;
3. Articulation and identification of enforceable state policies, authorities and techniques for managing energy facilities and their impacts;
4. Identification of how interested and affected public and private parties may be involved in the planning process."

B) IDENTIFICATION OF ENERGY FACILITIES LIKELY TO LOCATE IN THE COASTAL ZONE

Energy development has obviously played and continues to play a vital role in the economic development of coastal Louisiana. The production of oil and natural gas, both within Louisiana's boundaries and on the Outer Continental Shelf under federal jurisdiction has played a key role in meeting state, regional, and national energy needs. The development of these vast hydrocarbon resources has required the siting of a broad array of energy and energy related facilities. These include numerous oil and gas platforms, assembly yards, storage and crew bases, and attendant refining and gasification facilities. In addition, a vast network of pipelines has been located within the Louisiana coastal zone to transport the hydrocarbons. In response to the need to safely and efficiently land oil transhipped from foreign countries, the Louisiana Offshore Oil Port (LOOP) was proposed and granted necessary federal and state approvals. This facility and associated facilities are currently under construction. Based on the existing situation and trends, the following types of energy facilities are likely to locate in the coastal zone:

1. Facilities for exploration, development, production, conversion, storage transfer, processing or transportation of any energy resource such as:
 - Electric generating power plants;
 - Petroleum refining and associated facilities;
 - Gasification plants;
 - Facilities used for the transportation, conversion, treatment, transfer or storage of liquified natural gas;
 - Oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes;
 - Facilities, including deepwater ports, for the transfer of petroleum and petroleum products;
 - Pipelines and transmission facilities; and
 - Terminals which are associated with the foregoing.
1. Facilities for the manufacture, production, or assembly of equipment, machinery, products or devices which are involved in any activity described above.

C. PROCEDURES FOR ASSESSING SITE SUITABILITY

Louisiana will use the comprehensive permitting system described in Chapter IV to assess the suitability of sites for proposed energy facilities and anticipate and manage the impacts of those affecting the coastal zone. These permit and siting procedures, which include the coastal use permit process mandated by Act 361, as well as other laws, such as those related to the maintenance of air and water quality ensure that all activities associated with energy facilities that could significantly affect the coastal zone are adequately reviewed by the state.

The determination as to whether or not an energy facility is consistent with the guidelines will follow a systematic process based on evaluation of the probable impacts and benefits of the proposed facility and activities associated with it on the environment. Evaluation of the probable impacts which the proposed facility may have on the environment and the public interest requires a careful weighing of all those factors which become relevant in each particular case, including consideration of all feasible alternatives. The benefits which reasonably may be expected to accrue from the proposal must be balanced against those reasonably foreseeable adverse impacts. The decision whether to authorize a proposed facility and, if so, the conditions under which it will be allowed to occur are therefore

determined by the outcome of the general balancing process. That decision should reflect the state's concern for both the protection and utilization of its important resources.

In recognition of the important role energy developments play in the well-being of the state and nation and the fact that much of the state's most productive energy sources are located in the coastal zone, Louisiana does not exclude energy facilities from the coastal zone. However, the siting of such facilities is to be reviewed to assure that there is an appropriate balancing of the important public interest served by energy development with the important public interests in maintaining the natural productivity of the coastal wetlands. Thus decisions on siting must involve a practical weighing of legal, economic, and geological need to locate an energy facility at a particular location and benefit to be derived from it, with the availability of practical alternative locations; the suitability of the site for the facility; the expectable impacts of the facility on the environment; and the national interest (see Chapter VI). For example, such energy facilities as well sites, pipelines and field storage facilities will normally be permitted to be sited in wetland areas, subject to compliance with standards to assure that their environmental impacts are minimized, while facilities such as refineries, major storage facilities and supply and support facilities which do not have to be located where the mineral resource is found, should normally be sited in upland areas or in development corridors.

D) STATE POLICIES AND AUTHORITIES FOR MANAGING ENERGY FACILITIES AND THEIR IMPACTS

As noted above, the state will rely on the permit procedures of Act 361 as well as other existing state-level regulatory authorities to manage significant impacts of energy facilities. With few exceptions, these programs manage activities, e.g., surface alteration; or impacts, e.j., effluent discharges rather than types of facilities. However, the scope of these programs is broad enough to provide for comprehensive management. Although the major programs affecting energy facility siting are briefly summarized below, the reader should refer to Chapters II and IV for a more complete articulation of the policies and authorities included in the program.

1) Act 361

Act 361 provides the basic policies and authorities that Louisiana will use to manage the siting of energy facilities in the coastal zone. The guidelines developed pursuant to Act 361 (contained in Chapter II) provide specific criteria to assess the suitability of siting for energy facilities. Guideline 1 provides a listing of the general factors to be considered in the review process and Guideline 1.7 sets forth these adverse impacts which are to be avoided. Guideline 1.8 defines and operationalizes the commonly used term "maximum extent practicable" as a balancing process which assures that energy facilities can be constructed yet assures that best practical techniques are used to minimize or avoid adverse impacts. The remaining guidelines provide criteria for reviewing activities, such as

dredging and spoil disposal that would be associated with energy facility development. Finally, specific criteria for pipeline placement and oil and gas activities are also included in guidelines 3.1 through 3.10 and guidelines 10.1 through 10.14.

These guidelines will be implemented directly through the coastal use permit process provided by Act 361. The following are identified in Section 213.5(A) as uses of state concern:

- All mineral activities, including exploration for, and production of, oil, gas, and other minerals, add dredge and fill uses of associated therewith, and all other associated uses.
- All pipelines for the gathering, transportation or transmission of oil, gas and other minerals.
- Energy facility siting and development.

Act 361 also provides that permits issued by the Office of Conservation in the Department of Natural Resources for the location, drilling, exploration and production of oil, gas, sulfur and other minerals pursuant to La.. R.S. 30:1-63, 204, 205, 213, and 215 be consistent with the guidelines. These are issued in lieu of coastal use permits noted above. DNR is the state agency with primary authority over energy production facilities. Their activities are coordinated with CMS/DNR through MOU"s as described in Chapter IV, and through the consistency procedures provided for in the Act.

2. State Authorities

The following additional state authorities will also be utilized to manage the impacts of energy facilities.:

Department of Culture, Recreation and Tourism

- Authorities to administer and protect all archaeological and historical remains and sites on any state owned lands or waterbottoms. La R.S. 41:1601-1613.

Department of Health and Human Resources

- The planning for proper control of the quality of the air resources of the state; this is to be carried by means of a permit system and otherwise to control air contaminants by all practical and economically feasible methods and reduce undesirable levels fo contaminants. The initiation of emission control actions in emergency air pollution conditions is also authorized. La.R.S. 40:2201-2216. This authority is to be transferred to the OEA of DNR as of January 1, 1980 pursuant to the LEAA.

Department of Natural Resources

- Subsurface storage and disposal of waste products and the surface and storage facilities at the injection site. La. R.S. 30:1(D) and 4(C)(16).
- Permitting and regulation of exploration, drilling, production and subsurface disposal of geothermal energy resources La. R. S. 30 and 23.
- Permitting and regulation of the storage of natural gas, oil and other hydrocarbons in underground reservoirs and salt domes. La. R.S. 30:22 and 23.
- Permitting and regulation of geophysical and geological surveying on state lands and waterbottoms, highways and other servitudes and easements owned by the state La. R.S. 30:210-217.
- Permits and leases for the use of waterbottoms, including determination of boundaries, reclamation of lands lost through erosion, and construction of wharfs, piers, bulk-heads, fills or other encroachments. La. R.S. 41:1131.
- Leasing of public lands for storage and transportation of hydrocarbons or goods and wares, including related subsurface facilities. Uses for which they may be leased include pipelines, underground storage and construction and maintenance facilities. La. R.S. 41:12621269 provide for such leases by any governmental body owning the land and by the DNR for state lands. DNR may also grant rights-of-way across state lands. La. R.S. 41:1173-74.
- Leasing of state owned lands and waterbottoms for oil and gas and other mineral exploration and production. La. R.S. 30:151-159, 171, 208, 209.
- Certificates of clearance from the Commissioner of Conservation for all pipelines are required. La. R.S. 30:4(C)(12).
- Regulation and permitting of natural gas transmission pipelines for safety. La. R.S. 30:557(G) and 560(C). Natural gas pipelines must also meet the safety requirements of the Department of Public Service. La. R.S. 45:307-315.
- Regulation and permitting of the transportation, storage and disposal of hazardous waste pursuant to Act 334 of 1978, La. R.S. 30:1101-1116, with advice from the governor's office of science, technology and environmental policy. This authority has been revised by the LEAA and transferred to the OEA.

- Regulation and permitting of the use of nuclear energy is under the Commissioner of conservation. La. R.S. 51:1501 et seq. Transferred by the LEAA to the OEA.

The Department of Wildlife and Fisheries

- The administration and regulation of the state Natural Scenic River System, including permits and review of uses thereof. La. R.S. 56:1841-1849.
- The supervision, regulation, and permitting, including certifications of compliance, of discharges and introductions of polluting substances into the surface waters of the state. La. R.S. 56:1431-1446, 1451-1453, 1461-1464, 38:216. This authority is to be transferred to the OEA of DNR pursuant to the LEAA.

Department of Transportation and Development

- The issuance of licenses, certification, and permits regulating all phases of construction and operation of offshore terminal facilities within the jurisdiction of the authority. La. R.S. 4:3101 et. Seq.
- The issuance of letters of clearance for pipelines on state lands or through levees. La. R.S. 38:221, 225.
- The planning, constructing, maintaining and regulating the use of the state highway system. La. R.S. 4811 et. Seq.
- The regulation and approval of the location, design, construction and operation of all airports, landing fields, and navigation facilities. La. R. S. 2:6, 8.
- The registering and regulation of the construction, operation and abandonment of water wells producing in excess of 50,000 gallons per day. La. R.S. 38:3091-3097.

E) PUBLIC PARTICIPATION AND MEANS FOR CONTINUED CONSIDERATION OF THE NATIONAL INTEREST IN ENERGY FACILITY SITING

The public and other affected interests are involved in the energy facility siting process through the notification and requirements of various Louisiana statutes. Section 213.11 of Act 361, for example, requires that within 10 days of receipt of a coastal use permit application by the Administrator, copies of the application shall be distributed to the local government or governments in whose parish the use is to occur and all appropriate federal, state and local agencies and public notice shall be given. A public hearing on an application may be held. In addition, the coastal use permit decision must be consistent with the state program and approved local programs for affected parishes and must represent an appropriate balancing of social, environmental and economic factors. In all instances local government comments shall be given substantial consideration. Public notice of coastal use permit decisions shall be given.

As explained in Chapter VI of this document the guidelines require that the national interest in energy facility siting be considered in the coastal use permit decision making process. Moreover, Section 213.8(C)12 requires that appropriate consideration be given to uses of "national importance, energy facility siting and national interests in coastal resources". Local programs must have acceptable procedures to consider uses affecting national interest, Section 213.9C(3)(c) of the Act. As energy development and energy related activities are vital to Louisiana's economy and energy facilities are already located in most areas of the coastal zone, future planning and regulation will assure that proposed sites are intrinsically suitable for the use and that steps are taken to minimize adverse impacts. Louisiana does not preclude the siting of any such facility in the coastal zone but may condition or deny individual siting proposals if the policies of the program are not met.

APPENDIX f SHORELINE EROSION

A) FEDERAL REQUIREMENTS

Section 305(b)(9) of the CZMA requires that the state develop a process for shoreline erosion and mitigation planning. The process the state develops must include the elements in Section 923.25 of the federal program approval regulations:

- 4) A method for assessing the effects of shoreline erosion and evaluating techniques for mitigating, controlling, or restoring areas adversely affected by erosion.
- 5) An identification and description of enforceable policies, legal authorities, funding techniques, and other techniques that will be used to manage effects of erosion.

B) HISTORICAL SITUATION

The land area of Louisiana has increased during the past several thousand years because land gain from Mississippi River sedimentation processes has exceeded processes of land loss. Recently (in terms of geologic time) this process has been reversed, so that more land is being lost to erosion than is being formed by sedimentation. Louisiana is now losing more land than any other state (Adams, et. al., 1978). Studies have documented an average yearly net loss of 16.5 square miles of land occurring through shoreline erosion, marsh deterioration, canal construction and other factors. Since 1940, the total land loss has been more than 500 square miles. (LACCMR, 1973, Craig and Day, 1977; Adams, et. al., 1976; Conner, et. al., 1976; and Adams, et. al., 1978).

The causes for erosion in Louisiana are a complex mixture of man's activities and natural factors. Even without man's activities, erosion would certainly occur along some sections of the coast. Throughout the period when land building forces were dominant, erosion played an important role in determining the present morphology of the coastal area. All of coastal Louisiana has experienced land gain but there has never been a time when the entire area was building seaward concurrently. (Adams, et. al., 1978).

There are many natural process which contribute to the erosion of Louisiana's coastal areas. Erosion along the coast may be caused by geological, climactic or other natural processes.

Some of the principal forces causing shoreline erosion in Louisiana are the wind-induces energy of waves and currents resulting from storms. Beach material both above and below the still water level is loosened by the waves and moved away by the currents. Under equilibrium conditions, the material transportated away is replaced by material from updrift areas.

Natural beaches exist in dynamic equilibrium—responding to external forces and gradually adjusting back to equilibrium. If, however, material is not available to replace what is transported away, the equilibrium is upset and erosion occurs. (Adams et. al., 1978).

Geological process also cause erosion in Louisiana's coastal area. The whole coastline roughly below Interstate Highways 10 and 12 is downwarping. Throughout the Quaternary Period, Louisiana was built up with sediments from the Mississippi River. The weight of these sediments has caused isostatic adjustments in the crust of the earth, forcing the coastline to sink. At the same time, there has been a rise in sea level, which causes land to sink even lower in relation to the water. In order for a marsh to remain viable it must accrete land vertically fast enough to maintain its elevation. If it does not, it slowly ponds, loses its ability to trap sediment and erodes away.

Unusual climactic conditions such as hurricanes or droughts also cause erosion in coastal Louisiana. Hurricanes physically tear away wetlands and often cause further destruction by introducing saltwater into previously freshwater areas. Prolonged droughts cause erosion by lowering the water table in marshes which results in lethal concentrations of salts or the compacting of thin sediment layers.

Until recently (last 150 years), these natural factors which cause erosion were more than balanced by other natural processes which led to the accretion of land. The main accretion factor was the constant deposition of new sediments from the Mississippi River. The most significant reason for the sudden change from the building of land to the erosion of land in Louisiana's coastal area has been the alteration of the natural sediment dispersion cycle of the Mississippi River. From a macroscale perspective, whether there is a net gain or loss of land is largely dependent on the balance between sediment supply and those factors that tend to lower the elevation of the land. (Adams, et. al., 1978).

The natural processes of erosion are still in operation, but the natural factors which cause land gain have been altered by man's attempt to stop the flooding of the Mississippi River. Much of the sediments that flowed over the river banks into the wetlands or dispersed at the mouth of the Mississippi River are now being dumped on the other side of the outer continental shelf because of the deepening of the Mississippi channel in offshore waters and the construction of artificial levees. This leads to a net loss in sediments which would otherwise flow into back water marshes or replenish the sands of the barrier islands. The Natural forces of littoral drift, wave action and subsidence are still in effect but the sediment replenishment cycle has been broken.

Many of man's activities in the wetlands further aggravate the erosion. Oil and gas pipeline canals cause saltwater intrusion by opening up straight paths through the wetlands. Strong northern winds push salt water from the Gulf straight up pipeline canals bringing the salt water in contact with previously fresh water wares. The salt water kills the freshwater vegetation and the soil erodes away.

Other activities, such as boat waves which physically remove sediments from unstable spoil banks or marsh buggies which kill tender vegetation or the changing of natural drainage patterns, are all contributing factors in the erosion of Louisiana's wetlands.

C) ASSESSING THE EFFECTS OF SHORELINE EROSION

The first step in developing a comprehensive erosion control program for the Louisiana Coastal Management program was to determine where Louisiana was having critical erosion problems and what their causes were. A study was funded by the Louisiana Coastal Resources program to determine where erosion or accretion was occurring, what the causes of the erosion or accretion were, and what, if any, were possible solutions to the erosion problem.

The study was conducted by the Center for Wetland Resources for the Louisiana Coastal Resources program and published in 1978. (Adams, et. al., 1978). This study contains a detailed description and analysis of the erosion problem in coastal Louisiana. The study divided the coastal zone into eight hydrologic units. Each unit was analyzed to determine whether erosion or accretion was occurring and the rate at which these processes were occurring, what were the physical causes for erosion or accretion, what effects were these processes having on cropland, wetlands, housing, etc., and what kind, if any, erosion protection was justified. The general management concepts and guidelines of that report are as follows:

- 4) The problem of erosion in Louisiana is by no means unique. Erosion is occurring along sections of virtually every coastal state. However, Louisiana is in a better position than most states to do something about it. First, much of coastal Louisiana is rural. Settlements requiring coastal access have largely developed on more stable Pleistocene sediments or along natural levees. Most of these preferred areas are being utilized. Therefore, continued growth of south Louisiana will place increasing pressure to develop more hazard-prone areas. Secondly, the processes that have extended Louisiana's coastline seaward for thousands of years are still active.
- 5) To take advantage of these processes, a regional approach to reducing erosion is necessary. The deposition of Mississippi River sediment into deep offshore waters can be diverted to more inland areas, thus helping to curb erosion. Such a plan has been proposed by Gagliano and Van Beek.

Although the legal entanglements of such a plan are numerous, the technology of implementing such a plan is available. To the west, the formation and growth of the Atchafalaya delta has reversed the trend from erosion to accretion in Atchafalaya Bay and vicinity. The continued seaward and latitudinal growth of the delta may solve the problem of coastline erosion of southwest Louisiana.

problems of erosion in the coastal zone. A study is presently being conducted by the United State Fish and Wildlife Service, and the Bureau of Land Management to assess the changes in natural habitat in the coastal zone areas. This study will show, on a series of maps, the amount of erosion which occurred in the coastal zone between the early 1950's and 1978. The state will use the results of this study in continuing to develop a management program for erosion. Local management programs have also considered the problems of erosion while listing problems and goals for their parishes. Many parishes have identified and mapped areas which have severe erosion problems and have recommended physical solutions to alleviate these problems.

D) DESIGNATION OF AREAS FOR EROSION CONTROL AND RESTORATION

Resources areas in which erosion may be a problem are addressed in the Coastal Use Guidelines and also may become subject to special management if they are designated as special management areas by the LCRP. The applicability of the guidelines to activities which may affect erosion is described below. Specific guidelines may apply to such activities if the activities are of certain types, would have potential effects on erosion, or are in or near areas that may be subject to erosion.

Erosion-prone areas are also potential "special areas" under the state program. Act 361 provides that beaches, barrier islands, and are subject to subsidence or saltwater intrusion may require special management techniques and may be designated as special management areas. Section 213.10(A).

The designation of an area as requiring special management for erosion control, under Act 361, can be made either by the state as a "special area" or an approved local program as a "particular area". Other state agencies may also designate certain other areas for special management under other statutes, for example as part of the management of state parks or wildlife areas as public lands administered by these agencies. Section 213.10(E) of Act 361, states that the secretary is authorized to assist both local governments with approved local programs, and other state agencies, with technical, financial or other assistance to develop special projects for the preservation or restoration of specific sites in the coastal zone.

E) POLICIES AND PROCEDURES TO MANAGE EROSION

Several policies have been developed by the state of Louisiana to control land loss due to erosion. Section 213.2(1) of Act 361, states a broad public policy to:

"protect, develop, and where feasible, restore or enhance the resources of the state's coastal zone".

The Coastal Use Guidelines contain guidelines concerning erosion control which apply to all uses and specific erosion control guidelines which apply to certain types of activities, including levees, linear facilities, spoil

deposition, shoreline modification, and hydrologic and sediment transport systems. These guidelines can be separated into three basic categories: guidelines concerning the sediment transport system, guidelines on saltwater intrusion, and guidelines on shoreline stabilization.

1) Sediment Transport Systems

The guidelines involving the sediment transport system basically concern minimizing the reduction of any changes in the natural flow of sediments into the wetland and barrier island systems, by minimizing changes in water flow characteristics in wetlands. Guideline 7.5 also encourages the use of freshwater siphons to reintroduce sediments and nutrients into wetlands and to offset saltwater intrusion. See guidelines 1.4(a), 1.4(i), 1.41, 3.9, 3.14, 5.2, 5.5, 7.1, 7.2, 7.3, 7.4, 7.5, 7.7, 10.4.

2) Saltwater Intrusion

The guidelines on salt water intrusion concern methods and techniques including marsh management and canal construction techniques for minimizing the change in salinity regimes and avoiding salt water intrusion. See guidelines 1.4(h), 3.9, 3.10, 3.11.

3) Shoreline Stabilization

The guidelines for shoreline stabilization concern minimizing shoreline erosion through the use of natural methods of shoreline protection, shoreline modification structure standards and spoil deposition. See guidelines 4.6, 5.1, 5.3.

In addition to these state policies, local programs will develop policies to control erosion as part of their effort to identify and manage resource issues. In order to be approved, these local programs must have the same effect as the state policies described above. Local programs in addition to developing specific policies applicable to erosion, will also incorporate other local laws which will have the effect of controlling erosion problems.

F) LEGAL AUTHORITIES AND FUNDING SOURCES FOR MANAGING EROSION

Several legal authorities have already been identified for controlling erosion. These include the guidelines developed under Act 361, applicable local policies and ordinances, and the regulatory authorities of other state agencies for activities and areas subject to their jurisdiction. In addition, state agencies may comment on activities proposed to the U.S. Army Corps of Engineers for erosion control. After federal program approval of the LCRP by OCZM, Dnr will determine whether such proposed activities are consistent with the policies of the state program which relate to shoreline erosion.

Funding of programs to abate erosion may be obtained from several sources. Section 213.10(E) of Act 361 authorizes the Secretary of DNR to provide assistance to approved local programs and state and local agencies for the management, development, preservation, or restoration of specific sites in the coastal zone. The state program will continue to develop policies and programs on erosion after federal program approval, using funds available under Section 306 of the CZMA. Grants and loans to local governments for the purpose of planning and projects to abate erosion related to the development of energy facilities and attendant activities is available through the Coastal Energy Impact Program.

Depending on the outcome of present litigation, the Louisiana First Use Tax established in Article IX, Section 59 of the Louisiana Constitution and Act 294 of 1978, may also, become an important source of funding for erosion control measures. Twenty-five percent of the revenues of the tax will be applied to capital improvement projects to conserve, preserve, and maintain the barrier islands, reefs, and shores of the Gulf Coast of the state.

APPENDIX g PUBLIC INVOLVEMENT

A) INTRODUCTION

The intent of the Louisiana Legislature regarding public involvement in coastal zone management is expressed in Act 361 as:

In the development and implementation of the overall management program, reasonable efforts shall be made to inform the people of the state about the coastal management program and participation and comments by federal, state, and local governmental bodies, including port authorities, levee boards, regional organizations, planning bodies, municipalities and public corporation and the general public shall be invited and encouraged.

In addition to public involvement and public hearings in the development of the state program, Act 361 directs local government to:

afford full opportunity for municipalities, state and local government bodies, and the general public to participate in the development and implementation of the local program.

The above policies complement the requirements of section 306(C)(1) of the CZMA that state programs be developed:

...with the opportunity of full participation by relevant federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private...

B) PUBLIC INFORMATION

The Coastal Resources Program has, since its inception, sought to provide for adequate public involvement by means of a number of public involvement and information programs.

The Cote de la Louisiane newsletter was established in 1975. The purpose of this newsletter is to keep citizens and officials informed of current CZM issues as well as the status of the Louisiana program. A continuing effort to place on the growing mailing list all persons with a particular interest in coastal management, especially those who will be directly affect by the program, has been made. The spring, 1979, Cote de la Louisiane mailing list consisted of over 5,000 persons and organizations. The two public hearings on the Hearing Draft were announced on the front page of the April, 1979, Cote de la Louisiane. Also, the name, address,

and phone number of the person to contact to obtain a copy of the Hearing Draft was listed on the front page. During fiscal year 1976-77, the Cote de la Louisiane was sent to almost 4,000 people. This kept people informed about the happenings of the legislature, deliberations of the Coastal Commission, and results of technical reports. The newsletter also contained feature articles on individual parishes developing local CZM programs and bibliography of all LCRP technical studies.

Other public information activities include the distribution of brochures, television interviews, issuance of press releases, and the presentation of slide shows at meetings with public officials, and workshops with public and private organizations and officials. The results of a survey, conducted in 1974 (Lindsey, et. al., 1976) concerning citizen perception of coastal area planning and development, were also published by Sea Grant and made available to the Coastal Resources Program.

C) PUBLIC PARTICIPATION

One of the major public participation activities in 1975 was a series of five public information meetings. Approximately 900 people attended these meetings. The purpose of the meetings was to inform the public of the goals of coastal resources management and to solicit prevailing opinions regarding the problems and needs of coastal Louisiana. This was accomplished both through discussion at the meetings and through a brief questionnaire that each person in attendance was asked to fill out.

Prior to these public meetings, a series of meetings with local officials was conducted. Contact with relevant groups and agencies was also made.

An important feature of the public participation program was the establishment of advisory committees in 1976 to assist coastal parishes in the development of local CZM plans. The members of these committees represent a wide range of interests in the communities. Three slide shows concerning the resources and problems of coastal Louisiana were used extensively by the LCRP parish coordinators at the early meetings of these committees.

In addition to the efforts of the CRP parish coordinators to keep the committees informed of CZM activities at the state and federal levels, workshops are held at which representatives of the committees are given the opportunity to ask questions and make comments on the state program as well as to find out what other parishes were doing in developing their local programs.

Other activities of the public participation program included meetings with Congressional staff members to keep them informed of what was happening at the state level.

Many of these activities are performed on an on-going basis and continue to the present. The newsletter continues to be sent to an expanding mailing list which now includes 5,200 recipients, local advisory committees (now existing in 16 of the 17 parishes) continue to be informed of state

and federal level CZM activities and workshops are held for their representatives providing an opportunity for local input into the state plan.

New activities in 1978 included presentation of the film "Offshore Onshore", concerning impacts of offshore oil and gas development, to the parish advisory committees and other interested groups. Also, copies of all the technical reports completed are being made available to each parish so they will be more accessible to local residents.

D) PUBLIC HEARINGS

The Coastal Resources Program held two public hearings on the program's entire scope in April, 1979. These hearings were held in New Orleans, the largest city of the coastal zone, and Lafayette which is centrally located just north of the coastal zone. These meetings were publicized through the new media.

Thirty days notice was provided on the public notice of the hearing dates and locations. Newspaper advertisements were placed in the following papers:

Times Picayune-States Item, New Orleans
Lake Charles American Press, Lake Charles
Cameron Pilot, DeQuincy
Daily Iberian, New Iberia
Jefferson Parish Times, Metairie
Jefferson Democrat, Gretna
Daily Advertiser, Lafayette
Daily Comet, Thibodaux
Denham Springs News, Denham Springs
Plaquemines Gazette, Belle Chase
St. Bernard Voice, Arabi
St. Charles Herald, Norco
News-Examiner, Litcher
L'Observateur, LaPlace
Daily Review, Morgan City
Daily Sentry News, Slidell
Kentwood Ledger, Kentwood
Houma Daily Courier, Houma
Abbeville Meridional, Abbeville
States Times-Morning Advocate, Baton Rouge

Announcements of the meetings and the availability of the Hearing Draft and DEIS were sent to each person on the Cote de la Louisiane mailing list 30 days prior to the public hearings. Additionally, press releases were sent to all the official parish journals of the coastal parishes as well as the Baton Rouge and Lafayette Papers.

copy of public meeting notice

MEETINGS ON THE COASTAL RESOURCES PROGRAM

MEETING	1975	1976	1977	1978	1979*	
<u>TOTAL</u>						
Federal Agencies	1	16	15	2 48	22	
State Agencies	3	13	18	5	2	40
Environmental Groups	4	4	4	6	1	19
Service Groups	6	14	13	2	0	35
Parish Advisory Committee 403	0	14	147	168	240	
LCC Meetings	0	2	1	0	14	12
Industry Groups	6	15	1	2	2	26
Legislative Hearings (State)	3	6	4	3	1	17
Municipal	2	2	0	0	0	4
Police Jury	11	28	33	9	0	81
Congressional Briefing	1	2	0	0	0	3
Public Meetings	5	1	2	1	5	11
C.E.I.P. Meetings w/ 1	0	0	0	0	0	1
Local Officials						

*Through March 1, 1980

APPENDIX h
FEDERAL CONSULTATION, CONTINUING
CONSULTATION WITH FEDERAL, STATE, AREA WIDE,
REGIONAL, AND LOCAL AGENCIES, AND PLAN COORDINATION

A) FEDERAL CONSULTATION

In seeking to further federal-state coordination in the management of coastal resources and to implement the federal consistency procedures, the CZMA requires that states fully coordinate the development of their coastal management programs with relevant federal agencies. Specifically, state must provide relevant federal agencies with the opportunity to fully participate in the development of coastal programs and further insure that the views of such agencies are adequately considered.

The State of Louisiana has attempted to involve all federal agencies at the earliest possible time in the development of the state's coastal management program. It was determined by the staff that a regional forum for highlighting state/federal coastal zone management issues was needed in addition to individual agency contacts.

On June 13, 1975 the Louisiana Coastal Resources Program requested the assistance of the Southwest Federal Regional Council (SWFRC) in the preparation of selected aspects of the coastal zone management program. The SWFRC responded affirmatively and included an approved program element entitled "Coordination of the Federal Responsibility in State Coastal Management Programs" in their work programs for Fiscal Years 1976, 1977, and 1978.

Through this program an ad hoc committee was established to coordinate the efforts of the federal agencies in defining the national interest and to provide data and expertise requested by the states. Numerous requests for information and federal assistance were made through the Southwest Federal Regional Council. Of primary significance were those requests for information on federally owned and controlled lands, national interest, and geographic areas of particular concern.

Following the passage of Act 361 in 1978, a SWFRC meeting was held in New Orleans on July 27, 1978. This meeting provided the LCRP staff with an opportunity to brief federal agencies on the Act and the remaining steps in program development as well as to receive federal agency comments.

In addition to contacts made through the Southwest Federal Regional Council, individual contacts and meetings with key federal agencies began in June, 1975. To date there has been no serious dispute or disagreement with any federal agency.

This document is intended to inform federal agencies concerning the full scope of the Louisiana Coastal Resources Program. The comments of federal agencies are invited.

1) Relevant Federal Agencies

The following is a list of those agencies with which consultation and coordination has been undertaken.

U.S. Department of the Interior

- Bureau of Land Management
- Bureau of Reclamation
- Bureau of Mines
- Heritage, Conservation and Recreation Service
- U.S. Geological Survey
- National Park Service
- Bureau of Indian Affairs
- U.S. Fish and Wildlife Service

U.S. Department of Transportation

- Federal Aviation Administration
- U.S. Coast Guard
- Federal Highway Administration

U.S. Department of Commerce

- Economic Development Administration
- National Oceanic and Atmospheric Administration
- Maritime Administration
- National Marine Fisheries Service

Department of Agriculture

- Soil Conservation Service
- Farmers Home Administration
- Agricultural Research Service
- U.S. Forest Service

Department of Defense

- U.S. Army Corps of Engineers
- Department of the Army
- Department of the Air Force
- Department of the Navy

Environmental Protection Agency

- Energy Research and Development Administration*
- Federal Energy Regulation Commission (formerly Federal Power Commission)*
- General Services Administration
- U.S. Department of Health, Education and Welfare
- U.S. Department of Housing and Urban Development
- National Aeronautics and Space Administration
- Nuclear Regulatory Commission
- Federal Energy Administration*

*These agencies have since been incorporated into the Department of Energy.

The Coastal Resources Program has attempted to stay in close contact with all relevant federal agencies since the beginning of the program. This contact continues through the Southwest Federal Regional Council. Additionally, members of the Coastal Resources Program staff have met individually with many federal agencies. A listing of contacts since the beginning of 1979 follows:

2) Meetings with Federal Agencies

January 9, 1979 - Meeting with attorney, NOAA, Southeast Region in Tampa. Overview and status of the Louisiana program, guidelines and potential for working together.

January 9, 1979 - Informal meeting with NMFS regional director in Tampa to review the status of the Louisiana program and guidelines. Discussed his expectations of program and permitting process.

March 20, 1979 - Meeting with Corps of Engineers in New Orleans on program draft, guidelines and MOU. Discussed possibilities of working relations, how implemented and potential problems.

March 27, 1979 - Meeting with Environmental Protection Agency in Dallas on program draft, guidelines and potentials for ongoing working relationship.

March 29, 1979 - Meeting with Housing and Urban Development.

April 2, 3, 1979 - Informal meetings with members of Gulf of Mexico Fisheries Management Council on LCRP.

April 9, 1979 - Meeting with Wildlife and Fisheries Service in Lafayette on program draft, guidelines and potentials for ongoing working relationship.

April 13, 1979 - Meeting with Coast Guard in New Orleans on program draft, guidelines and overview of program.

April 16, 1979 - Telephone conversation with Department of the Interior.

April 18, 1979 - Meeting with National Marine Fisheries Service at Lafayette. Program draft, guidelines and potential for working relationship.

April 19, 1979 - Meeting with Corps of Engineers, Environmental Protection Agency, National Marine Fisheries Service and Fish and Wildlife Service about Corps of Engineers permitting process and LCRP relationship with that process.

April 20, 1979 - Meeting in New Orleans - Congressman Breaux, Corps of Engineers, Environmental Protection Agency, National Marine Fisheries Service and Fish and Wildlife Service on problems with Corps of Engineers permitting process.

April 30, 1979 - Meeting with U. S. Fish and Wildlife Service regarding joint project utilizing remote sensing data to review permit applications.

May 17, 1979 - Meeting with National Coastal Zone Management Advisory Committee on the status of the Louisiana program.

August 7, 8, 9, 1979 - Staff members attended Coastal Mapping Conference sponsored by NOAA and USGS at Bay St. Louis.

August 13, 1979 - Meeting with FWS - Biological Service in Slidell, Louisiana to discuss research proposals.

August 23, 1979 - Meeting with U.S. Army Corps of Engineers, NMFS, USFWS, USGS, on directional drilling study.

August 23, 1979 - Meeting with NMFS on DWF-NMFS field reviews on Corps permit application.

August 27, 1979 - Meeting with Corps of Engineers, New Orleans District, Center for Wetland Resources 0Louisiana State University and the Image Processing and Remote Sensing Center - Louisiana State University to discuss development of a computerized permit tracking system, a cumulative impact analysis process and an environmental monitoring system.

January 10, 1980 - Presentation to HUD Staff on LCRP and coordination efforts with federal agencies.

January 16, 1980 - Meeting with Department of the Interior Geological Survey to discuss information required in OCS exploration and development plans.

January 21, 1980 - Meeting with Corps of Engineers on permit processing procedures to facilitate joint permitting process.

January 28, 1980 - Meeting with Corps of Engineers to review environmental assessment procedures.

February 21, 1980 - Monthly interagency meetings with Corps, U.S.FWS. EPA and NMFS to discuss questions concerning Corps permit applications.

February 26, 1980 - Meeting with Department of Interior, Geological Survey, on consistency review requirements and on environmental assessment procedures.

February 27, 1980 - Meeting with Soil Conservation Service on watershed programs.

B) CONTINUING CONSULTATION WITH FEDERAL, STATE, AREAWIDE, REGIONAL, AND LOCAL AGENCIES

The Coastal Resources Program will utilize the OMB Circular No. A-94 (revised) Project notification and Review System as a mechanism for continuing consultation and coordination with affected local governments, areawide,

regional, interstate and other state agencies after program approval. Additionally the Coastal Resources Program will continue to keep in close touch with local governments in the coastal zone through the efforts of the program's regional coordinators.

It is not anticipated that management program decisions as defined in the Federal Register (March 28, 1979) will conflict with local wishes since these types of decisions will be made in conjunction with affected local governments. For example, in designating special areas, the administrator may with the advice and assistance of affected local programs, prepare a draft "Proposal for Special Area".

The coordinated coastal use permitting process will also provide for continuing consultation. Once a local government has an approved coastal plan, the "permitting window" will be at the local level. Local government will make the decisions regarding uses of local concern. The comments of local government will be an important consideration in making decisions on uses of state concern at the state level. State and federal actions will be consistent with local coastal plans. Local governments can hold public hearings at their discretion and the comments received will be considered carefully at the state level.

Port districts will be reviewed for consistency and an ongoing relationship between ports and the state program will be cultivated.

C) PLAN COORDINATION

Prior to granting approval to a management program submitted by a coastal state, the Secretary of Commerce shall find that the state has coordinated the contents of its management program with local, areawide or interstate plans applicable to areas within the coastal zone existing on January 1, of the year in which the state's management program is submitted to the Assistant Administrator for approval (Coastal Zone Management Act, Subsection 306(c)(2)(A)).

Section 213.8(D) of Act 361 states:

In the development and implementation of the overall management program, reasonable efforts shall be made to inform the people of the state about the coastal management program and participation and comments by federal, state, and local governmental bodies, including port authorities, levee boards, regional organizations, planning bodies, municipalities and public corporation and the general public shall be invited and encouraged.

All governmental bodies may participate to ensure that their interests are fully considered.

The Louisiana Coastal Resources Program has accomplished these requirements of both federal and state Acts. The program is a comprehensive management program which will provide effective management of the state's coastal resources use and natural resources. Efforts are continuing to (1)

consider the interests of local, state, regional, and federal authorities and affected bodies, (2) consider the programs of the many affected agencies and bodies to create a comprehensive management program, and (3) create a program which embodies the interests and established plans pertaining to coastal land and water uses and resources.

Office of Management and Budget Circular No. A-95 is a regulation to help establish coordination of planning and development activities of federal and federally assisted projects. It also helps state and local governments to see the relationship of an action to state, areawide, and local plans and programs, and secures state and local inputs to environmental impact statements as required by the National Environmental Policy Act. The Louisiana Coastal Resources program has utilized the A-95 process to aid in plan coordination.

Coordination with local plans has also been sought through planning contracts with the parishes beginning in the summer of 1976 and continuing until the present. Participation in these planning efforts has been excellent and standing citizen advisory committees exist in nearly every coastal parish. Additionally, the Louisiana Coastal Resources Program has compiled information on existing parish ordinances, regulations, and codes.

APPENDIX i
COASTAL MANAGEMENT SECTION
Work Products
Annotated Bibliography

August 1980

Adams, R.D., et al. Barataria Basin: Geologic Process and Framework.
Baton Rouge: Center for Wetland Resources, Louisiana State University, June, 1976.

Describes the landforms and processes that are operative in Louisiana's coastal wetlands. Also, discusses process that cause marsh deterioration and land loss with studies of coastal erosion, etc. (Distribution copies available)

Adams, R.D., et al. Shoreline Erosion in Coastal Louisiana: Inventory and Assessment.
Center for Wetland Resources, Louisiana State University, August 1978.

The objectives of this study are to develop a methodology that would enable decision makers to 1) assess the extent to which shoreline erosion is presently occurring in coastal Louisiana, 2) determine the geographic variability of erosion rates across coastal Louisiana and relate this to variability in the physical and cultural environment, 3) assess the implications of shoreline erosion on the physical and cultural environment, 4) designate areas for erosion control consideration, and 5) assess the feasibility of structural and nonstructural procedures for managing erosion along designated areas of the Louisiana coast. (Distribution copies available)

Bahr, L. M. and Hebrard, J. J. Barataria Basin: Biological Characterization. Baton
Rouge: Center
for Wetland Resources, Louisiana State University, May, 1976.

A functional description of biological processes at the basin and habitat level, including rainfall, tidal flow, wind, and temperature. Also, summaries of research on distribution and abundance of animal groups. (Distribution copies available)

Ben Jeffers, Inc. Coastal Zone Planning Study. Baton Rouge: Ben Jeffers, Inc., April, 1979.

This study determines the authority and permitting procedure (if any) presently used by state agencies involved with coastal resources by use of a questionnaire and interviews. It also identifies the permits and activities that must be consistent with CZM. It outlines the legal statutes and authority that each agency has that pertains to resources in the coastal area, details

the monitoring and enforcement activities in the coastal zone and discusses interagency coordination, permit consistency, staffing and funding, and other issues. Recommendations are outlined for the development of a procedure to ensure that the granting of permits are consistent with CZM goals.

Burk and Associates, Inc. Louisiana Coastal Resources Inventory, Volume 1. "Geographic Areas of Particular Concern". New Orleans: Burk and Associates, Inc., June, 1975.

An inventory by parish (questionnaires were sent to each parish) including recreational facilities, historical, cultural and tourist features, archaeological sites, and development areas of particular concern. (Review copy only in library)

Burk and Associates, Inc. Louisiana Coastal Resources Inventory, Volume 2, "Impact Assessment Review". New Orleans: Burk and Associates, inc., June, 1975.

An inventory of federal, state, regional and metropolitan agencies and their plans and projects which affect the coastal zone. (Review copy only in library)

Burk and Associates, Inc. Louisiana Coastal Resources Inventory, Volume 3, "Significant Coastal, Plans and Projects". New Orleans: Burk and Associates, Inc., June, 1975.

An analysis of completed, under construction and proposed projects which may have a significant impact on the coastal area. (Distribution copies available)

This document provides a means whereby the state can improve coastal shorefront recreational opportunities by presenting a list of coastal shorefront access locations appropriate for acquisition or expansion as public recreation or preservation areas. This report includes facility recommendations, cost estimates for implementing the proposed projects and possible sources of funding as well as management guidelines for each of the areas and programs described. It includes aesthetic, environmental, historical, cultural, recreational and ecological considerations. (Distribution copies available)

Burk And Associates, Inc. Potential Preservation and Restoration Areas in the Louisiana Wetlands. New Orleans: Burk and Associates, Inc., June, 1977.

This report considers fifty potential natural areas representing a cross section of all major physiographic types in coastal Louisiana which were evaluated as natural areas. The evaluation are addressed in this report under three headings: 1) Standards

and Criteria for Preservation and Restoration Areas; 2) Evaluation of Potential Preservation Areas; and 3) Priority Ranking of Preservation Areas. Two maps depicting Potential Restoration Areas and Potential Preservation Areas are included. (Distribution copies available)

Burk and Associates, Inc. Recreational Potential Along the Louisiana Coast: Proposed New and Expanded Sites for Recreation. New Orleans: Burk and Associates, Inc., February, 1977.

Lists, arranged by parish, containing recommendations for both expansion of existing facilities and new potential sites in areas where facilities are now non-existing along the Louisiana coast. (Distribution copies available)

Burk and Associates, Inc. Unique Ecological Features of the Louisiana Coast. New Orleans: Burk and Associates, Inc., June 1976.

Describes 23 categories of unique ecological features (zoological, botanical and geological) of the Louisiana coast. (Distribution copies available)

Byrne, P., et al. Barataria Basin: Hydrologic and Climatologic Processes. Baton Rouge: Center for Wetland Resources, Louisiana State University, June, 1976.

Gives hydrologic aspects of the basin, including data on water level changes, meteorological driving forces, tides, salinity and water temperatures. Also, an analysis of environmental responses to weather types. (Distribution copies available)

Coastal Environments, Inc. Siting Energy Related Facilities in Louisiana's Coastal Zone. Baton Rouge: Coastal Environments, Inc. 1978.

Discusses the major items that need to be considered in a process of energy facility siting—the facility (common types considered and parts identified), the environmental setting (discusses La.'s coastal area with maps and summarizes factors to be considered in CEIP project assessments), and the institutional aspect (discusses relationships of energy facility siting and coastal zone management interests at federal, state, regional and local levels). Also discusses the procedure to follow to determine location alternatives, project selection and facility implementation. (Distribution copies available)

Coastal Environments, Inc. A Jetty From Point Chevreuil: An Evaluation of a Proposal to Reduce Sedimentation in the Cote Blanche Bays and Vermilion Bay. Baton Rouge: Coastal environments, Inc., June, 1977.

This study analyzes the processes that are causing the observable changes in the emerging delta in Atchafalaya Bay, and considers the effectiveness of a jetty in controlling these changes. (Review copy only in library)

Coastal Environments, Inc. A Process for Coastal Resources Management and Impact Assessment. Baton Rouge: Coastal Environments, Inc., August, 1976.

Presents a background for understanding resource management and overview of naturally occurring and manmade physical conditions that may be encountered in the Louisiana coastal area. Also, it presents a practical procedure for developing a local coastal resource management program and a systematic approach to resource management and assessment of onshore impacts resulting from outer continental shelf energy related resource development. (Distribution copies available)

Craig, N. J. and Day, J. W. , Jr. Cumulative Impact Studies in the Louisiana Coastal Zone: Eutrophication and Land Loss. Baton Rouge: Center for Wetland Resources, Louisiana State University, June 30, 1977.

An examination of the causes and consequences of eutrophication and land loss in coastal Louisiana. (Distribution copies available)

Davis, Don and Gary, Don. Presences, Growth Trends and Environmental Impact of Louisiana's Wetlands Settlements. Thibodaux: Nicholls State University, October, 1975.

A study of the strip settlements, in the deltaic plain in six coastal parishes and the impacts of growth on wetlands. (Review copy only in the library)

Farber, Stephen and Johnson, David B. The Impact of Oil and Gas Exploration, Development, and Production on the Outer Continental Shelf of Louisiana: Backgrounds and Methodology. Baton Rouge: Louisiana State Planning Office, July, 1976.

This report contains data on OCS development and some financial implications for the state. The major portion of this study is concerned with alternative methodologies, and their related evaluations, which can be applied to measuring the impact of petroleum and gas mining activity on the Outer Continental Shelf (OCS) adjacent to Louisiana. (Distribution copies available)

Happ, Georgeann; et. al. Impacts of Outer Continental Shelf Activities: Lafourche Parish, Louisiana. Baton Rouge: Center for Wetland Resources, Louisiana State University, August, 1976.

This study deals with environmental impacts of OCS activities on Lafourche Parish and Grand Isle, Louisiana. Objectives of the study were to identify environmental impacts of mineral extraction, navigation, and transportation projects and activities in Lafourche Parish and Grand Isle that result from OCS activity, and to measure the impact of these projects and activities. (Distribution copies available)

Harrison, N. N. and Adams, R.D. Description of Louisiana's Coastal Zone. "Supplement to A Rationale for Determining Louisiana's Coastal Zone". Baton Rouge: Center for Wetland Resources. Louisiana State University, Spring, 1976.

This description represents a verbal delineation of the inland boundary of the Louisiana coastal zone. (Review copy only in library)

Louisiana State Planning Office. Handbook for Development in Coastal Louisiana. Baton Rouge: Coastal Resources Program, Louisiana State Planning Office, June, 1977.

A source book for developers in the Louisiana coastal area. This information may be used in relation to a specific development activity or it may be read for background. (Distribution copies available)

Louisiana State Planning Office. Louisiana Coastal Resources. Baton Rouge: Coastal Resources Program, Louisiana State Planning Office, Spring, 1977.

General information concerning Louisiana's efforts toward a coastal zone management plan, and documents coastal parishes individual participation. (Distribution copies available)

Louisiana State University, Sea Grant Legal Program. Model Local Government Ordinances. Baton Rouge: Sea Grant Legal Program, Louisiana State University, June, 1977.

An analysis of the authority of local governments to enact local CZM ordinances; contains two types of model ordinances. (Distribution copies available)

McIntire, William G., et al. A Rationale for Determining Louisiana's Coastal Zone. Baton Rouge: Center for Wetland Resources, Louisiana State University, November, 1975.

Relevant information for determining eventual boundary delineation, including navigable waters, soils, vegetation, salinity, water clams, blue crabs, records of marine fish and reptiles. Also, has tables on flood plain zoning. (Review copy only in library)

Mendessohn, I. A., et al. A Potential Indicator of the Cumulative Impact of Sublethal Stress in Coastal Plant Communities. Baton Rouge: Center for Wetland Resources, Louisiana State University, August, 1978.

This study provides preliminary information indicating the suitability of adenylate composition and/or E.C. ratio, a measure of energy rich compounds, as a monitor of environmental stress in coastal plant communities. Positive correlations were obtained in some cases but additional testing is required. (Review copy only in library)

Midboe, Kai D. , et.al. Legal authorities for Control of Land Use in Coastal Louisiana. Baton Rouge: Sea Grant Legal Program, Louisiana State University, November, 1976.

A detailed description of the federal, state and local authorities to regulate activities within Louisiana's coastal zone. (Distribution copies available)

Mumphrey, Anthony J., et.al. Coastal Zone Management in the Metropolitan New Orleans Region. New Orleans: Urban Studies Institute, University of New Orleans, August, 1976.

A study intended to provide information of several dimensions for use in the development of Coastal Zone Management Plans in the parishes of the metropolitan New Orleans region—Jefferson, Orleans, St. Bernard and St. Tammany—in an attempt to lead to judicious utilization of the resources in the Louisiana coastal zone. (Distribution copies available)

Mumphrey, Anthony J., et.al. The Impacts of Outer Continental Shelf Development on Lafourche Parish. New Orleans: Urban Studies Institute, University of New Orleans, August, 1976

This study attempts to survey the impacts of OCS mining activity in Lafourche Parish in terms of employment, income, job types, environmental effects, and required supporting facilities and services. (Distribution copies available)

Mumphrey, Anthony J., et. al. Louisiana Metropolitan Wetlands: A Planning Perspective. New Orleans: Urban Studies Institute, University of New Orleans, October, 1976.

Discusses the wetlands and their relationship to metropolitan areas and the impact of metropolitan development in wetlands in terms of pollution, reclamation and channelization. (Review copy only in library)

Mumphrey, Anthony J., et. al. OCS Development in Coastal Louisiana: A Socio-Economic Impact Assessment. New Orleans: Urban Studies Institute, University of New Orleans, August, 1977.

This study quantifies the impacts of OCS development activities in terms of economic production, jobs, population, and public service costs. Also discusses are the federal Coastal Energy Impact Program, the additional costs of urban development in wetlands, local planning capabilities in the coastal zone and citizen involvement in coastal planning. (Distribution copies available)

Mumphrey, Anthony J., et. al. Urban Development in the Louisian Coastal Zone: Problems and Guidelines. New Orleans: Urban Studies Institute, University of New Orleans, December, 1976.

A study surveying existing urban development practices in Louisiana's coastal zone, identifying problem areas in wetlands development and assesses the adequacy mechanisms. (Distribution copies available)

Mumphrey, Anthony J., et.al. The Value of Wetlands in the Barataria Basin. New Orleans: Urban Studies Institute, University of New Orleans, June, 1978

This study discusses the socio-economic and ecological systems of the Barataria Basin, including population growth and the structure of the Barataria Region's economy. Also discusses are several methods for computing the economic value of the Barataria wetlands. (Distribution copies available).

Murray, S. P. Currents and Circulations in the Coastal Waters of Louisiana. Baton Rouge: Center for Wetland Resources, Louisiana State University, Spring, 1976.

A review of the major areas of research involved (major river mouths, open coastal waters, coastal bays and lakes, Chandeleur-Breton Sound, etc.) In understanding Louisiana's coastal waters (circulations and currents), showing progress and ranking the most urgent needs for knowledge to utilize our coastal waters. (Review copy only in library)

A Nine-Point Recommendation for Coastal Resources Management to Develop Louisiana's Wetlands. Baton Rouge: Coastal Resources program, Louisiana State Planning Office, May, 1976.

A discussion of the case for management of Louisiana's coastal resources. (Distribution copies available)

Projected Parish Land Needs. Baton Rouge: Coastal Resources Program, Louisiana State Planning Office, April, 1977.

Inventories of existing and coastal land needs by coastal parish. A brief outline of existing land utilization is compared by projected demands for selected land needs through 1985. (Distribution copies available)

Renner, James R. The Coastal Zone: An Overview of Economic, Recreational and Demographic Patterns. Baton Rouge: Louisiana State Planning Office, November, 1976.

A general perspective on the uses, categorized as economic, demographic and recreational, of the physical resources of the coastal zone, both renewable and nonrenewable. (Distribution copies available)

Southwestern Louisiana, University of. An Analysis of Agriculture, Forestry and Mariculture in the Coastal Zone of Louisiana. Lafayette: University of Southwestern Louisiana, 1975.

This analysis discusses the continued growth of agriculture, forestry and aquaculture and its relation to the wetlands. (Review copy only in library)

Southwestern Louisiana, University of. Outer Continental Shelf Impacts. Morgan City, Louisiana. Lafayette: University of Southwestern Louisiana, June 30, 1977.

Impacts of OCS activities upon Morgan City, Louisiana described categorically by employment, income, occupational shifts, population increases, increased division of labor, changes in land use, strains on municipal services, destruction of the environment, shifts in tax base, and changes in recreation patterns. (Distribution copies available)

Stone, J. H. Environmental Factors Relating to the Louisiana Menhaden Harvest. Baton Rouge: Center for Wetland Resources, Louisiana State University, Spring, 1976.

Identifies environmental factors related to menhaden harvest such as air and water temperature, rainfall, etc., and determines how these factors affect distribution and abundance. Also, measure extent of each factor on a yearly, seasonal, monthly basis and indicates predictor equations for harvest and for distribution and abundance. (Review copy only in library)

Stone, J. H. and McHugh, G. F. Simulated Hydologic Effects of Canals in Barataria Basin: A Preliminary Study of Cumulative Impacts. Baton Rouge: Center for Wetland Resources, Louisiana State University, June 30, 1977.

Computer simulations modeling comparison of hydrologic parameters in the Barataria Basin before and after construction of the Barataria and Intracoastal waterways, and canals associated with eight oil and gas fields. (Distribution copies available)

Van Sickle, V. R., et. al. Barataria Basin: Salinity Changes and Oyster Distribution. Baton Rouge: Center for Wetland Resources, Louisiana State University, Spring, 1976.

An assessment of current and historical aspects of oyster production, distribution and relationship with changing environments, including temperature, food, pollution and salinity. (Distribution copies available)

Wax, C.L., et. al. Climatology, Hydrology and Hydrography of the Vermilion Basin. Baton Rouge: Center for Wetland Resources, Louisiana State University, June 30, 1977.

A study of synoptic weather types, environmental responses and hydrologic and hydrographic processes of the Vermilion Basin. (Review copy only in library)

NOTE: Many of the reports for which we have review copies only are available through the federally operated National Technical Information Service (NTIS). For accession numbers and complete information for ordering, please feel free to write or telephone our office.

COASTAL MANAGEMENT SECTION
Louisiana Department of Natural Resources
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APPENDIX j
REVISED BOUNDARIES, LOUISIANA COASTAL ZONE
Coastal Zone Boundary

NOTICE: This boundary description does not include the amendments of Act 386, 1980. Act 396 adds a portion of St. Martin Parish to the coastal zone (see Chapter IV). A new boundary description is being prepared by the Office of Public Works.

A. The west interstate boundary of the coastal zone shall be the boundary line between Louisiana and Texas as decreed by the Supreme Court of the United States in the case of "State of Texas vs. State of Louisiana on Bill of Complaint No. 36, Original, Decided May 16, 1977." Said westerly Louisiana boundary commences at the seaward limit of the Louisiana Submerged Lands Act Grant, which point is at Latitude $29^{\circ}35'41.917''$ North, Longitude $93^{\circ}48'41.845''$ West. Thence from said point on a line running north-northwesterly on a constant bearing of North $13^{\circ}44'48.8''$ West true, proceed to the seaward end of the Sabine River jetties, which point is at Latitude $29^{\circ}38'37.329''$ North, Longitude $93^{\circ}49'30.940''$ West. The interstate boundary from the seaward end of the jetties through Sabine Lake, Sabine Pass and Middle Pass to the mouth of Sabine River is defined by a series of straight lines between points with locations described by either the Louisiana (Lambert) Plane Coordinate System (South Zone) or the Texas (Lambert) Plane Coordinate System (South Central Zone). The geographic positions of these same points are described in the above mentioned Supreme Court decree and are shown on Exhibit 13, which is in evidence therein. Thence proceed northerly along the Louisiana-Texas boundary, as described in the same decree and as shown on Texas Exhibits AAA-12 and AAA-13, which are in evidence therein, to the intersection with the westerly prolongation of the northerly right-of-way line of the Intracoastal Waterway, the intersection being situated at about Latitude $30^{\circ}03'29.99''$ North, Longitude $93^{\circ}41'59.15''$ West.

C. The east interstate boundary of the coastal zone shall be the interstate boundary separating Louisiana and Mississippi. From its intersection with the southerly right-of-way line of U.S. Interstate Highway No. 10, proceed in a generally southeasterly and easterly direction along the interstate boundary separating Louisiana and Mississippi to the seaward limit of the Territorial Sea Boundary.

D. The seaward boundary of the coastal zone of Louisiana shall be the territorial sea limit from the interstate boundary separating Louisiana and Mississippi to the interstate boundary separating Louisiana and Texas, as each interstate boundary is determined by law.

line of Louisiana Highway No. 82 to its intersection with the southerly right-of-way line of Louisiana Highway No. 690. Thence proceed in a generally easterly direction along the southerly right-of-way line of Louisiana Highway No. 690 to its intersection with the easterly right-of-way line of Louisiana Highway No. 330. Thence proceed in a generally easterly and northerly direction along the southerly and easterly right-of-way line of Louisiana Highway No. 330 to its intersection with the southerly corporate limit of Delcambre. Thence proceed in a generally westerly direction along the southerly corporate limit of Delcambre to its intersection with the westerly corporate limit of Delcambre. Thence proceed in a generally northerly direction along the westerly corporate limit of Delcambre to its intersection with the northerly corporate limit of said town. Thence proceed in a generally easterly direction along the northerly corporate limit of Delcambre to its intersection with the easterly corporate limit of said town. Thence proceed in a generally southerly direction along the easterly corporate limit of Delcambre to its intersection with the southerly right-of-way line of Louisiana Highway No. 14. Thence proceed in a generally easterly direction along the southerly right-of-way line of Louisiana Highway No. 14 to its intersection with the southwesterly right-of-way line of new U.S. Highway No. 90. Thence proceed in a generally southeasterly direction along the southwesterly right-of-way line of new U.S. Highway No. 90 to its intersection with the southeasterly right-of-way line of Louisiana Highway No. 85. Thence proceed in a generally northeasterly, southeasterly and then northeasterly direction along the southeasterly, southwesterly, and southeasterly right-of-way line of Louisiana Highway No. 85 to its intersection with the southwesterly corporate limit of Jeanerette. Thence proceed in a generally northwesterly direction along the southwesterly corporate limit of Jeanerette to its intersection with the northwesterly corporate limit of said town. Thence proceed in a generally northeasterly direction along the northwesterly corporate limit of Jeanerette to its intersection with the northeasterly corporate limit of said town. Thence proceed in a generally southeasterly direction along the northeasterly corporate limit of Jeanerette to its intersection with the southeasterly corporate limit of said town. Thence proceed in a generally southwesterly direction along the southeasterly corporate limit of Jeanerette to its intersection with the southwesterly right-of-way line of Louisiana Highway No. 182 (former U.S. Highway No.90). Thence proceed in a generally southeasterly direction along the southwesterly right-of-way line of Louisiana Highway No. 182 to its intersection with the northerly corporate limit of the Town of Baldwin. Thence proceed in a generally easterly direction along the northerly corporate limit of Baldwin to its intersection with the easterly corporate limit of said town. Thence proceed in a generally southerly direction along the easterly corporate limit of Baldwin to its intersection with the southeasterly corporate limit of said town. Thence proceed in a generally southwesterly direction along the southeasterly corporate limit of Baldwin to its intersection with the southwesterly right-of-way line of Louisiana Highway No. 182 (former U.S. Highway No. 90). Thence proceed in a generally southeasterly and easterly direction along the southwesterly and southerly right-of-way line of Louisiana Highway No. 182 (former U.S. Highway No. 90) to its intersection with the southerly right-of-way line of U.S. Highway 90. Thence proceed in a generally easterly direction along the

southerly right-of-way line of U.S. Highway 90 to its intersection with the east bank of the Atchafalaya River at Morgan City. Thence proceed in a generally northerly direction along the east bank of the Atchafalaya River to the southern bank of the alternate route of the Intracoastal Waterway. Thence proceed in an easterly direction along the southern bank of the alternate route of the Intracoastal Waterway to its intersection with the eastern corporate limits of the City of Morgan City. Thence proceed along the corporate limits of the City of Morgan City to its intersection with the northerly bank of Bayou Boeuf. Thence proceed in a generally southeasterly direction along the northerly bank of Bayou Boeuf to its intersection with the westerly prolongation of the north bank of Bayou Chene. Thence proceed with in a generally easterly direction along the northerly bank of Bayou Chene to is intersection, by prolongation, with the northerly bank of Bayou Cocodrie. Thence proceed in a generally easterly and southeasterly direction along the northerly bank of Bayou Cocodrie and Lake Cocodrie to its intersection, by southeasterly prolongation, with the northeasterly right-of-way line of the Intracoastal Waterway. Thence proceed in a generally southeasterly, easterly, and northeasterly direction along the northerly right-of-way line of the Intracoastal Waterway to its intersection with the northwesterly prolongation of the northeasterly bank of an unnamed drainage canal, which intersection is in Section 104, T17S-R17E. Southeastern District West of the Mississippi River. Thence proceed from said intersection in a generally southeasterly direction along the northeasterly bank of said un-named canal to a point in the vicinity of Crozier Cemetary, which point is 2,000 feet west of the cetnerline of Louisiana Highway No. 315. Thence proceed in a generally southerly direction along a line parallel with and 2,000 feet westerly of the centerline of Louisiana Highway 315. Thence proceed in a generally southerly direction along a line parallel with and 2,000 feet westerly of the centerline of Louisiana Highway No. 3416 to its intersection with the northerly right-of-way line of Falgout Canal. Thence proceed in a generally east-southeasterly direction along the northerly right-of-way of Falgout Canal and across Bayou DuLarge to its intersection with a line parallel with and 2,000 feet southeasterly from the centerline of Louisiana Highway No. 315. Thence proceed in a generally northerly direction along a line parallel with and 2,000 feet easterly from the centerline of Louisiana Highway No. 315 to a point due west of the intersection of the easterly right-of-way line of the Houma Navigation Canal and the northerly right-of-way line of Ashland Canal. Thence proceed due east to the aforementioned intersection. Thence proceed in a generally easterly and southerly direction along the northerly and easterly right-of-way line of Ashland Canal to its intersection with the northerly right-of-way line of st. Louis Canal. Thence proceed in a generally easterly direction along the northerly right of way line of St. Louis Canal to a point 2,000 feet westerly from the centerline of St. Louis Canal to a point 2,000 feet westerly from the centerline of Louisiana Highway No. 57. Thence proceed from said point in a southerly direction along a line parallel with and 2,000 feet westerly from the centerline of Louisiana Highway No. 57 to its intersection with the southerly right-of-way line fo an un-named, un-numbered paved road which is immediately south of an un-named canal, said intersection being about 0.56 miles southwesterly from the Dulac Water Tower. Thence proceed in a generally easterly direction along the southerly right-of-way line of the above-described un-numbered paved road and across Bayou Grand Caillou to is intersection with the centerline fo Louisiana Highway No. 57. Thence proceed due east to the intersection with a line parallel with and 2,000 feet

easterly from the centerline of Louisiana Highway No. 57. Thence proceed due east to the intersection with a line parallel with and 2,000 feet easterly from the centerline of Louisiana Highway No. 57. Thence proceed from said intersection in a generally northerly direction along a line parallel with and 2,000 feet easterly of the centerline of Louisiana Highway No. 57 to its intersection with the northerly right-of-way line of St. Louis Canal. Thence proceed in a generally easterly and northeasterly direction along the northerly right-of-way line of St. Louis Canal to its intersection with a line parallel with and 2,000 feet southwesterly from the centerline of Louisiana Highway No. 56. Thence proceed from said intersection in a generally southeasterly and southerly direction along a line parallel with and 2,00 feet westerly fo the centerline fo Louisiana Highway No. 56 to its intersection with the section line between Sections 8 and 9, T19S-R18E, Southeastern District West of the Mississippi River. Thence proceed in a generally southeasterly direction along said section line and southeasterly prolongation thereof to its intersection with the easterly right-of-way of an un-named un-numbered bituminous-paved highway on the east bank of Bayou Petit Caillou. Thence proceed in a generally northerly direction along the easterly right-of-way line of said un-numbered highway to its intersection with the section line between Sections 52 and 53, T19S-R18E, Southeastern District West of the Mississippi River. Thence proceed in a generally southeasterly direction along said section line between Sections 52 and 53 to its intersection with the Range Line between Ranges 18 and 19 East. Thence proceed in a generally northerly direction along said Range Line to the section corner of Sections 22 and 33, T19S-R19E, in said Land District. Thence proceed in a generally easterly direction along the section line between Sections 22 and 33, T19S-R19E, in said Land District, to the corner common to Sections 22, 33 and 5, T19S-R19E, in said Land District. Thence proceed from said corner in a generally southerly direction along the section line between Sections 33 and 6, T19S-R19E, to the corner common to Sections 50, 33 and 6, T19S-R19E, of said Land District. Thence proceed form said corner in a generally easterly direction along the section line between Section 6 and 50, T19S-R19E, and the prolongation thereof across Bayou Terrebonne to its intersection with the easterly right-of-way line of Louisiana Highway No. 55. Thence proceed in a generally northerly direction along the easterly right-of-way of Louisiana Highway No. 55 to its intersection with the southerly right-of-way line of Louisiana Highway No. 665. Thence proceed in a generally northeasterly direction along the southerly right-of-way line of Louisiana Highway No. 665 to its intersection with the centerline of Bayou Pointe au Chien. Thence proceed in a generally northerly, northwesterly and then westerly direction along the centerline of Bayou Pointe au Chien and the center of direction along the centerline of Bayou Pointe au Chien and the center of its relict channel, now the northeasterly and northerly ditch of an unnamed dirt road, to its intersection with the easterly right-of-way line of Louisiana Highway No. 55. Thence proceed in a generally northerly direction along the easterly right-of-way line of Louisiana highway No. 55 to its intersection with the southerly right-of-way line of Louisiana Highway No. 24. Thence from said intersection proceed in a generally easterly direction along the southerly right-of-way line of Louisiana Highway No. 254 to the southerly right-of-way line of Louisiana Highway No.1 in Larose. Thence proceed in a generally easterly and northerly direction along the southerly and easterly right-of-way line of Louisiana Highway No. 1 and the northerly prolongation thereof to its intersection with the northerly right-of-way

line of said highway. Thence proceed in a generally northerly direction across Bayou Lafourche along the easterly right-of-way line of Louisiana Highway 310 and the northerly prolongation thereof to its intersection with the northerly right-of-way line of Louisiana Highway No. 657. Thence proceed from said intersection in a generally westerly and northerly direction along the northerly and easterly right-of-way line of Louisiana Highway No. 657 and the prolongation thereof to its intersection with the northerly right-of-way line of Louisiana Highway No. 308. Thence proceed in a generally westerly direction along the northerly right-of-way line of Louisiana Highway No. 308 and the westerly prolongation thereof to its intersection with the westerly right-of-way line of the Intracoastal Waterway. Thence proceed in a generally northeasterly direction along the westerly right-of-way line of the Intracoastal Waterway to its intersection with the westerly right-of-way line of the Harvey Canal No. 2. Thence proceed in a generally northeasterly direction along the westerly right-of-way line of the Harvey Canal No. 2 to a point 100 yards inland from the bank of Lake Salvador. Thence proceed in a generally northeasterly and northwesterly direction along a line 100 yards inland from the southwesterly bank of Lake Salvador to its intersection with a line 100 yards inland from the westerly bank of Bayou Des Allemands. Thence proceed in a generally northerly direction along the line 100 yards inland from the westerly bank of Bayou Des Allemands and Petit Lac Des Allemands to its intersection with the boundary separating Wards 7 and 8 of Lafourche Parish. Thence proceed in a generally southwesterly direction along the said boundary to its intersection with the westerly right-of-way line of the Midway Canal. Thence proceed in a generally northwesterly direction along said westerly right-of-way of the Midway Canal and along a northwesterly straight-line prolongation of said right-of-way line to its intersection with the southerly right-of-way line of U.S. Highway No. 90. Thence proceed in a generally northeasterly direction along the southerly right-of-way line of U.S. Highway No. 90 to its intersection with a line 100 yards inland from the westerly bank line of Baie Des Deux Chenes. Thence proceed in a generally northwesterly direction along the line 100 yards inland from the bank of Baie Des Deux Chenes to its intersection with the line 100 yards inland from the southerly bank line of Lac Des Allemands. Thence proceed in a generally westerly direction along the line 100 yards inland from the bank line fo Lac Des Allemands to its intersection with the line 100 yards inland from the east bank line of Bayou Boeuf. Thence proceed in a generally southerly direction along the line 100 yards inland from the east bank of Bayou Boeuf to its intersection with the northerly right-of-way line of Louisiana Highway No. 307. Thence proceed in a generally westerly direction along the northerly right-of-way line of Louisiana Highway No. 307. Thence proceed in a generally westerly direction along the northerly right-of-way line of Louisiana Highway No. 307 to its intersection with the easterly right-of-way line of Louisiana Highway No. 20. Thence proceed in a generally northerly direction from said intersection along the easterly right-of-way line of Louisiana Highway No. 20 to its intersection with the boundary separating Lafourche and St. James Parishes. Thence proceed from said intersection in a generally westerly direction along the boundary separating Lafourche and St. James Parishes to its intersection with the boundary separating St. James and Assumption Parishes. Thence proceed from said intersection in a generally northerly direction along the boundary separating St. James and Assumption Parishes to its intersection

with the boundary separating St. James and Ascension Parishes. Thence proceed from said intersection in a generally northerly and easterly direction along the boundary separating St. James and Ascension Parishes to its intersection with the boundary separating Ascension and St. John the Baptist Parishes. Thence proceed from said intersection in a generally northerly direction along the boundary separating Ascension and St. John the Baptist parishes to its intersection with the boundary separating Ascension and Livingston Parishes. Thence proceed from said intersection in a generally northwesterly direction along the boundary separating Ascension and Livingston Parishes to its intersection with the boundary separating Livingston and East Baton Rouge Parishes. Thence proceed from said intersection in a generally northwesterly direction along the boundary separating East Baton Rouge and Livingston Parishes to its intersection with the southerly right-of-way line of U.S. Interstate Highway No. 12. Thence from said intersection proceed in a generally easterly direction along the southerly right-of-way line of U.S. Interstate Highway No. 12 to the intersection of its easterly prolongation with the southerly right-of-way line of U.S. Interstate Highway No. 10. Thence proceed in a generally easterly direction along the southerly right-of-way line of U.S. Interstate Highway No. 10 to its intersection with the interstate boundary between Louisiana and Mississippi, the east end of the inland boundary of the coastal zone.

C. The east interstate boundary of the coastal zone shall be the interstate boundary separating Louisiana and Mississippi. From its intersection with the southerly right-of-way line of U.S. Interstate Highway No. 10, proceed in a generally southeasterly and easterly direction along the interstate boundary separating Louisiana and Mississippi to the seaward limit of the Territorial Sea Boundary.

D. The seaward boundary of the coastal zone of Louisiana shall be the territorial sea limit from the interstate boundary separating Louisiana and Mississippi to the interstate boundary separating Louisiana and Texas, as each interstate boundary is determined by law.

APPENDIX k
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PARISH

Terrebonne

Jefferson

Cameron

Appendix I
STATE CONSTITUTIONAL AND STATUTORY PROVISIONS
INCORPORATED INTO THE LCRP

This appendix identifies the constitutional and statutory provisions incorporated into the LCRP. The section on statutory provisions noted the statute number, e.g. "La. R.S. 30:1-63", and the related rule, e.g., "4 La. Reg. 76 at 86". Please refer to the glossary in the front of this document concerning the abbreviations of agencies responsible for the implementation of each program. The phrase "(LEAA to OEA-DNR)", indicates that there has been a shift of agency responsibility brought about by the Louisiana Environmental Affairs Act (see section IV of this appendix, p. 1-12).

I. Constitutional Provisions

1. Article IX, Section 1, Louisiana Constitution (1974)

The natural resources of the state, including air and water, and the healthful, scenic, historic and aesthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people.

2. Article IX, Section 3, Louisiana Constitution (1974)

The legislature shall neither alienate nor authorize the alienation of the bed of a navigable water body, except for purposes of reclamation by the riparian owner to recover land lost through erosion. This section shall not prevent the leasing of state lands or waterbottoms for mineral or other purposes. Except as provided in this section, the bed of a navigable water body may be reclaimed only for public use.

1. State Regulatory Provisions

A. Oil, Gas, and Mineral Operations

1. Oil and Gas Well Operations (OC-DNR)

La. R.S. 30:1-63, 204, 205, 213, 215

Statewide orders 29-b, 298-A, 29-C through 29-L, 45-I, 25, 31-A,

151A-1

The conservation of oil and gas and the regulation, permitting and monitoring of the siting, drilling, producing, operating and abandonment of oil and gas wells, delineation of pools and units, and the use and sale of oil and gas

products are under the authority of the Commission of Conservation, OC-DNR, and are to be issued in-lieu permits pursuant to Section 213.12 B of the Act. The provisions are implemented by a series of statewide orders. Of these 29-B, rules for drilling and production; 29-B-a, storm choke rules; and 29-E and 29-H, on well spacing, are most relevant to coastal management. Individual orders may be issued for individual fields, pools, units or wells.

2. Subsurface storage and disposal of waste products by wells and surface storage facilities at non-hazardous well injection sites (OC-DNR).

La. R.S. 30:1(D); 3(C)(1) and 4C(16)

Statewide order 29-N, 3 La. Reg. 342

The subsurface storage and disposal of waste products by wells and the surface and storage facilities at non-hazardous waste injection sites are permitted and regulated by OC-DNR. A joint application is to be filed with the Office of Environmental Affairs.

3. Exploration, drilling, production and subsurface disposal of geothermal energy resources (OC-DNR).

La. R.S. 30:800-809, 681.1-5

4 La. Reg. 251, Statewide Order 29-P

The exploration, drilling, production and subsurface disposal of geothermal energy resources is permitted and regulated by OC-DNR. Disposal by geothermal operations into surface waters is subject to regulation by the Environmental Control Commission and the OMR-DNR is the leasing body for state lands. Rules by the commissioner for implementing his authority are found at 4 La. Reg. 251.

4. Storage of natural gas, oil, and other hydrocarbons in underground caverns and salt domes (OC-DNR).

La. R.S. 30:22-23

Statewide Order 29-M

3 La. Reg. 310

OC-DNR permits and regulates the storage of natural gas, oil and other hydrocarbons in underground reservoirs and salt domes. Authorization from OC-DNR is required and they have full regulatory authority over such storage. Rules for the use of salt domes for storage of hydrocarbons and for associated surface facilities are found in Statewide Order 29-M, 3 La. Reg. 310.

5. Intrastate natural gas transmission pipelines (OC-DNR).

La. R.S. 30:557(G), 560(C), 45:307-315
4 La. Reg. 76 at 86

Regulation and permitting of intrastate natural gas transmission pipelines for safety is under the authority of OC-DNR. La. R.S. 30:557(G) and 560(C). Natural gas pipeline safety rules were promulgated at 4 La. Reg. 76 at 86, which inter alia, incorporated the provisions of Parts 191 and 192 of Title 49 of the Code of Federal Regulations, together with Appendixes, a, b, c and d. Copies of these regulations are obtainable from OC-DNR. Natural gas pipelines must also meet the safety requirements of the Department of Public Safety. La. R.S. 45:307-315.

B. State Lands Management (Regulatory)

1. Geophysical and geological surveys (DWF; OMR-DNR)

La. R.S. 30:210-217

4 La. Reg. 9, 4 La. Reg. 300

DNR and DWF permit and regulate geophysical and geological surveying on state lands and waterbottoms, highways and other servitudes and easements owned by the state. Permits for geophysical surveys of state lands must be obtained from the Office Mineral Resources. If they take place on state owned waterbottoms, regulation is also by the DWF. If the survey is along state highways or rights-of-way, adjoining land owners must be identified and their consent obtained before a permit is granted. OMR rules are found at 4 La. Reg. 300.

2. Management of State Waterbottoms (DWF; DSL-DNR)

La. R.S. 41:1131, 41:1701-1714, 9:1101

5 La. Reg. 8

DNR is responsible for state management of waterbottoms, including determination of boundaries and permitting or reclamation of lands lost through erosion, construction of wharfs, piers, bulkheads, fills or other encroachments. Permits and leases are required from the DSL. Regulations implementing waterbottom management are found at 5 La. Reg. 8. DNR coordinates with DWF.

3. Regulations of Pipelines and other structures on or under State Waterbottoms (OC-DNR)

La. R.S. 30:409-H and 30:24 (1979)

DNR is to require that all wells, structures, and pipelines on state waterbottoms be buried, maintained, or removed so as to prevent creation of obstructions to navigation or fishing.

4. Leasing of state lands for storage and transportation of hydrocarbons (DSL-DNR)

La. R.S. 41:1271-1269, 41:1173-74

Public lands may be leased for the storage and transportation of hydrocarbons or goods and wares, including related sub-surface and surface facilities. Uses for which they may be leased include pipelines, underground storage, wharves and docks, salt-dome storage and construction and maintenance facilities. La. R.S. 41:1271-1269 provide for such leases by a governmental body owning the land and by the DNR for state lands. Any lease by the state is to be coordinated with DWF and leases for subsurface storage must be approved by the OC-DNR. The DNR may also grant rights-of-way across state lands. La. R.S. 41:1173-74. Rules for pipeline and other rights-of-way are found at 3 La. Reg. 314, which regulation contains requirements for the piping itself and coordination with other agencies.

5. Leasing of state lands for oil, gas, and other mineral operations(OMR-DNR)

La. R.S. 30:151-159, 171, 208, 209

3 La. Reg. 473

4 L. Reg. 210

The use of state owned lands and waterbottoms for oil and gas and other mineral exploration and production is under the authority of, or is subject to approval by the OMR, and requires a lease. Any structures or fill placed upon shore banks or waterbottoms pursuant to such lease must have a permit from the department and the OC-DNR.

DNR has adopted policies regarding the leasing of state property for mineral purposes. They are found at 3 La. Reg. 473 and 4 La. Reg. 210.

6. Leasing of state lands for purposes other than mineral operations (DSL-DNR)

La. R.S. 41:1211-1221, 41:1501-1505

Leases of state lands for other purposes are obtainable from the appropriate agency with control of the land. Such other

Purposes include trapping, grazing, hunting, agriculture and other legitimate purposes other than minerals, La. R.S. 41:1211-1221, and the leasing of waterbottoms and reclaimed lands for public recreational purposes subject to wildlife and fishery laws, La. R.S. 41:1501-1505.

7. Management of State Wildlife Refuges (DWF)

La. R.S. 56:109, 651-659, 701-801

3 La. Reg. 212, 297, 394

DWF establishes, manages, and regulates uses of wildlife management areas, preserves, refuges and sanctuaries. Regulations governing mineral operations on the State Wildlife Refuge are found at 3 La. Reg. 207; regulations regarding the non-commercial taking of aquatic species in coastal refuges and management areas at 3 La. Reg. 394, and regulations regarding mineral operations in the St. Tammany Wildlife Refuge at 3 La. Reg. 212.

The Russell Sage or Marsh Island Wildlife Refuge and Game Preserve has been designated as an area of particular concern and shall be subject to the management regime set forth in that section of this document.

8. Management of the Natural and Scenic River System (DWF)

La. R.S. 56:1841-1849

DWF administers and regulates the state Natural and Scenic River System, including permits and reviews of uses thereof.

Guidelines and procedures for the administration of and permitting of uses of the system were adopted on September 18, 1973. Rules for hearings on appeals are found at 2 La. Reg. 456.

9. Management of shell, sand, and gravel operations on state lands (DWF)

La. R.S. 56:450, 541, 609(C)(1)

DWF grants and collects the severance tax on dredging of shells, sand, gravel and fill materials from state waterbottoms.

10. Protection of levees and drainage channels (OPW-DOTD)

La. R.S. 38:211-225

OPW-DOTD issues letters of clearance for pipelines on state lands or through levees.

La. R.S. 38:211-225 also contain sanctions against cutting or destroying levees; riding or hauling on levees; hunting or shooting on levees; interfering with, obstructing or diverting drainage and drainage channels; pollution of natural drains, irrigating or flooding lands near the bases of levees; obstructing levees, waterways, and rights of way; and installing certain pipes through or under levees. La. R.S. 38:222 provides regulations for construction and operation of siphons through levees.

11. Management of archeological and historical sites

La. R.S. 41:1601-1613

1 La. Reg. 375

DCRT administers and protects all archeological and historical remains and sites on state owned lands and waterbottoms and reviews impacts on all such sites. Notice is to be given prior to altering or destroying sites or remains.

C. Transportation, storage and disposal of hazardous waste (E.C.C./DNR)(transferred by LEAA to OEA-DNR)

La. R.S. 30:1101-1116

5 La. Reg. 182

Regulation and permitting of the transportation, storage and disposal of hazardous waste is under the authority of the E.C.C./DNR pursuant to the LEAA with advise from the governor's office of science, technology and environmental policy. All generation, transportation, storage and disposal of hazardous wastes (except nuclear in or into the state are subject to permitting and reporting requirements.

D. Use and disposal of radioactive materials (E.C.C.-DNR)

La. R.S. 51:1051 et. seq., 51:1071(A), 51:172(A)

3 La. Reg. 183

The regulation and permitting of the use of nuclear energy is under the E.C.C.-DNR. Regulations and permitting procedures for the proper use and disposal of radioactive material were adopted at 3 La. Reg. 183. The complete text was not published but copies may be obtained from OEA-DNR.

(1) La. R.S. 30:1115B

Notwithstanding any law, order, or regulation to the contrary, no salt dome within the jurisdiction of the State of Louisiana shall be utilized as a temporary or permanent

disposal site for radioactive waste or other radioactive material of any nature by any person.

(2) La. R. S. 30:1111D

Notwithstanding any law, order, or regulation to the contrary, no high level radioactive waste, including spent fuel rods from nuclear reactors, shall be transported into the state for disposal or storage in this state or elsewhere.

E. Management of wildlife, fish, and other aquatic life (except oysters) (DWF)

La. R.S. 56:1-28, 56:101-181, 56:251-278, 56:311-637

The general authority over and regulation of the fish and wildlife for the state, including the requiring of appropriate permits is under the DWF and the Wildlife and Fisheries Commission.

1. The laws affecting the regulation of wild birds and game are found at La. R.S. 56:101-181.
2. The laws affecting the regulation of trapping fur-bearing animals and alligators are found at La. R.S. 56:251-278.
3. The laws affecting the regulation of fish, agriculture, and other aquatic life are found at La. R.S. 56:3-1-637.

The policy of the state regarding wildlife, fish and other aquatic life is to protect, conserve and replenish them. La. R.S. 56:1A.

F. Management of oyster bedding grounds (DWF)

La. R.S. 56:421-463

The DWF has authority over all aspects of oyster fishing as well as being the state lessor for oyster beds. Those licenses and leases issued by the DWF for oystering shall be in-lieu permits pursuant to §213.12(C) of Act 361.

G. Water Quality Regulation (ECC/DNR and OEA/DNR)

La. R.S. 30:1068, 1091-1096; 38:216

3 La. Reg. 424, 4 La. Reg. 302, 4 La. Reg. 212, 5 La. Reg. 212, 5 La. Reg. 49, 6 La. Reg. 158.

Act 449 of 1979 removed responsibility for water quality regulation from DWF and placed it in the OEA/DNR and ECC/DNR. The act abolished the Stream Control Commission in DWF.

The ECC/DNR and OEA-DNR supervises, regulates and permits, including the issuance of certificates of compliance, discharges of polluting substances into the surface waters of the state.

Water quality criteria for the waters of the state, including coastal waters, and streams discharging into them, are set forth at 4 La. Reg. 302 et seq. Additional pertinent regulations relate to discharges in the Mississippi River and Bayou Lafourche, 3 La. Reg. 424, and the permitting of discharges from sand and gravel operations, 4 La. Reg. 212 and 5 La. Reg. 49.

Submission of reports for the discharge of industrial waste and for the construction or alteration of treatment works is governed by a regulation adopted on August 1, 1951. The disposal of waste oil, oil field brine and other materials resulting from the drilling for, production of or transportation of oil, gas or sulphur.

These regulations, adopted by the Stream Control Commission, remain in effect pursuant to the provisions of R.S. 30:1068, 1091-1096. The interim rules of procedure for the ECC/DNR are found at 6 La. Reg. 158.

H. Resident endangered or threatened species (DWF)

La. R.S. 56:1901-1907

The DWF has the authority to adopt rules and regulations and programs necessary and advisable to conserve and maintain resident endangered or threatened species. Permits may be issued for the taking, exportation or commercial use of such species.

I. Construction and Operation of Offshore Terminal Facilities (LOTA-DOTD)

La. R.S. 34:3101-3116

Environmental Protection Plan (1978)

The Louisiana Offshore Terminal Authority of DOTD permits, regulates, and controls all phases of construction and operation of offshore terminal facilities (Superport) within the jurisdiction of the authority and has developed and enforces an environmental protection plan for the construction and operation of such facilities. The area and facilities subject to this regulatory authority have been designated as a Special Area by §213.10(C) of the Act and activities carried out in keeping with the environmental protection plan are exempted from the coastal use permitting program by §213.15(A)(6) of the Act.

J. Construction, operation and abandonment of water wells (over 50,000 gallons/day)(OPW-DOTD)

La. R.S. 38:3091-3097

1 La. Reg. 249, 315, and 587, 2 La. Reg. 88 and 119 3 La. Reg. 209

The OPW of DOTD registers and regulates the construction, operation and abandonment of water wells producing in excess of 50,000 gallons per day. Regulations implementing this authority are found at 1 La. Reg. 249, 315, and 582; 2 La. Reg. 88 and 119, and 3 La. Reg. 209.

K. Air Quality Regulation (ECC/DNR and OEA/DNR)

La. R.S. 30:1068, 1081-1087

4 La. Reg. 31, 5 La. Reg. 99, and 5 La. Reg. 170, 243, 326, 383

Act 449 of 1979 removed responsibility for air quality regulation from DHHR and placed it in the OEA/DNR and ECC/DNR. The act abolished the Air Control Commission in DHHR.

Air quality standards and emission limitations are set forth at 4 La. Reg. 31, 5 La. Reg. 99 and 5 La. Reg. 170. Permit and fee schedules are set forth at 5 La. Reg. 170, 243, 326, and 383.

These regulations adopted by the Air Control Commission, remain in effect pursuant to the provisions of R.S. 30:1068, 1081-1087. Interim rules of procedure for the ECC/DNR are found at 6 La. Reg. 158.

III. State Non-Regulatory Provisions

N. First Use Tax and Barrier Islands Conservation Account of First Use Tax (La. R.S. 47:1301-07)

Article IX§9 of the Louisiana Constitution of 1974 (as amended) and Act 293 of 1978, La. R.S. 47:1351, established an irrevocable trust fund from the proceeds of the First Use Tax established by Act 294 of 1978, La. R.S. 47:1301-1307. Twentyfive percent of the proceeds are to be maintained as the "Barrier Islands Conservation Account" and used for capital improvement projects designed to conserve, preserve and maintain the barrier islands, reefs and shores of the coastline of Louisiana. The protection of the barrier islands, reefs, and shores of the coast has been given great emphasis in the coastal management program and is of tremendous importance to the state. As increasing outer continental shelf development continues off of the state, its attendant pipeline and navigation canals and onshore support developments have taken an incredible toll on the coastal environment of the state, thereby requiring the availability of such funds for mitigating some of the impacts suffered by the state's coastal

resources. Therefore, the First Use Tax and the dedication thereof are included as an integral part of the coastal resources program.

- B. Freshwater diversion and salinity control of Mississippi River (DWF, OPW 0 DOTD, CMS-DNR) Acts 424 of 1964, 54 of 1969, 462 of 1970, 559 of 1972, 698 of 1972, 561 and 574 of 1979, and others.

A series of Acts have given DWF, DPW of DOTD and CMS-DNR the authority to create, operate and maintain a system of siphons, structures, and canals for freshwater diversion and salinity control from the Mississippi River.

- C. Planning, construction, operation and maintenance of all public works projects of the state, including effects on wetlands and other wildlife habitat (DWF, OPW-DOTD)La. R.S. 38:1-18

The Office of Public Works in DOTD has been given the administrative functions regarding the planning, construction, operation and maintenance of all public works projects of the state and the provision of technical assistance and review of public works projects conducted by political subdivisions. Of particular note is the authority regarding waterway projects and levees and other flood control projects. Such projects are to be reviewed by DWF for impacts on fish and wildlife.

- D. State Park System, commemorative areas, preservaton areas, and experimental sites. (DCRT) La. R.S. 41:1681 1 La. Reg. 343

The DCRT is charged with the establishment, operation and maintenance of a system of state parks, commemorative areas, preservation sites, preservation areas and experimental sites.

Regulations governing the uses of the areas subject to this program are set forth in 1 La. Reg. 343.

- E. State Outdoor Recreation Plan (DCRT)

La. R.S. 56:1801-1808

DCRT is to prepare and upgrade a comprehensive long-range plan for outdoor recreation development and for establishing policies and procedures for participation under the Land and Water Conservation Fund Act, 16 USCA 4601-4 to 4601-11.

- F. Management of portions of Atchafalaya Bay, East Cote Blanche Bay, West Cote Blanche Bay, and Vermilion Bay (DCRT)

La. R.S. 38:2351 et seq

DCRT is charged with the responsibility of preserving the environmental quality of the Atchafalaya Basin, including Atchafalaya

Bay, East and West Cote Blanche Bays, and Vermilion Bay developing facilities permitting the enjoyment of the scenic and educational features of this area, and maintaining and enhancing the economic value of the region.

La. R.S. 38:2356 establishes state policy for the use of the basin and the bays:

- (1) The state owned lands, private lands whose owners have voluntarily agreed to such use of their lands, and those lands which by location, are a critical part of the basin ecosystem shall be left in their natural state with no commercial or industrial activity permitted, except the exploration and production of minerals and necessary transportation thereof, the harvesting of timber by selective cutting methods, the development of facilities by the state for purposes of enhancing recreational use of the area for the benefit of the citizens of the state and nation, fishing, trapping, moss picking and farming, and other traditional industries all in a manner which are not detrimental to the essentially wild character of the area, will be permitted.
- (2) All possible action shall be taken immediately to preserve the swamp ecosystem of annual flooding and dewatering in its present form for as long a period as human ingenuity can preserve it and thereby take the necessary action to implement and enforce the land use plan.
- (3) That portion of Atchafalaya Bay, East Cote Blanche Bay, West Cote Blanche Bay and Vermilion Bay in the area described in R.S. 38:2352(b) and any enlargements thereof, exclusive of the one mile buffer zone around Marsh Island, is hereby established as a permanent wildlife and recreation area in which title to said bodies and all submerged, accreted and other lands including minerals and other resources in said areas except for presently existing privately owned islands are and shall remain the property of the State of Louisiana. The term "wildlife and recreation area" as used in this subsection shall be understood to mean an area designated for use by the public as long as such use does not interfere with other uses as authorized in R.S. 38:2356(E).
- (4) The area described in R.S. 38:2356(M)(1) is hereby permanently declared to be an arm of the sea and the laws of accretion and dereliction as defined in Civil Code Articles 509 and 510 shall not apply; provided, however, as to other areas nothing herein shall be construed to affect the laws of accretion and dereliction as defined in Civil Code Articles 509 and 510.

G. Fisherman's Gear Compensation Fund (DNR) La. R.S. 56.700.1 - 700.5.

DNR is to collect and administer a fund of at least \$100,000 from the proceeds of a \$300.00 fee to be paid by state mineral lessees and grantees of state rights of way in the coastal zone. The fund will be used to compensate commercial fishermen for damages resulting from snagging underwater obstruction.

H. Louisiana State Parks Land Acquisition Trust Fund (DCRT)

La. R.S. 56:1809

This is a trust fund of up to 100 million dollars collected from the proceeds of mineral activities on lands acquired with Land and Water Conservation Fund Act monies. The fund is to be used for acquisition of lands and improvement of facilities for public outdoor recreation.

I. State Sanitary Code, including regulation of water supplies, food processing, oyster and shellfish control, sewage disposal, noise, and obnoxious odors. (DHHR)

La. R.S. 40:4-6

DHHR enforces the State Sanitary Code which, among other things, requires compliance with standards and regulations for water supplies; handling and control of hygienic conditions for foods including oysters and other shellfish; noise; and obnoxious odors. Health permits or clearances are required.

IV. Environment Reorganization (ECC/DNR and OEA/DNR)

Louisiana Environmental Affairs Act, (LEAA) Act 449, 1979

La. R.S. 30:1051-1147

This act, which went into effect on January 1, 1980, consolidated many of the state's environmental regulatory authorities and agencies into the DNR. To implement the authorities, it created the Environmental Control Commission (ECC) which is to serve as the rule and policy making body and issue all permits (permitting may be delegated to the Office of Environmental Affairs ((EA)subject to ECC review) and the OEA which is to be the technical monitoring and enforcing body. The act does away with the Air Control Commission and the Stream Control Commission. The ECC and OEA are to have authority over air and water pollution, nuclear energy and radiation, solid waste management, hazardous wastes, and other environmental regulation.

APPENDIX m ADDITIONAL DEFINITIONS

Adverse Impacts - Impacts which result in a reduction in the quality of, or destruction of, existing levels of coastal resources.

Biological Productivity - The amount of living material produced over a certain period of time. Roughly equivalent to fish or agricultural harvest.

Critical Habitat - Vital nesting, breeding, feeding or nursery areas which are essential for the continued existence of a species of plant or animal or for the continued productivity of sport or commercial species.

Critical Wildlife and Vegetation Areas - Areas in which the immediate environment of specific animals or plants are of special concern because limitations on available habitat.

Cultural Resources - Non-renewable resources such as archaeological sites, historic places, folk culture activities, and other areas that are important in providing an identity of place and cultural roots.

Estuary - A semi-enclosed coastal body of water which has a connection with the open Gulf and within which sea water is measurably diluted with fresh water derived from land drainage.

Eutrophication - Over-enrichment of the nutrient content of a waterbody causing dissolved oxygen content to be reduced or depleted.

Important Wildlife or Fisheries Areas - Areas required by wildlife or aquatic species for breeding or spawning or which contain habitats suitable to their existence.

Irreplaceable Resource Areas - Areas containing resources which cannot be replaced through natural processes.

Known Oyster Reefs - Those natural or man-made oyster producing areas of record with the DWF.

Navigation Canals - Man-made canals which are to be utilized for navigation throughout the project life of the canal.

Non-Navigation Canals - Man-made channels which are not to be utilized for navigation purposes or are only to be used temporarily for navigation in association with another primary activity, for example: flotation access canals to drill sites or pipeline canals. Those guidelines and regulations requiring restoration or plugging of such canals shall become applicable upon cessation of the need for navigation directly associated with the primary activity.

Non-structural Methods of Shoreline Modification - Natural methods of shoreline protection such as retaining existing shoreline vegetation or planting or wetland vegetation, locating and designing structures where they will produce minimal interference with natural processes, and avoiding the placement of structures in areas of high erosion or sedimentation.

Open, Productive Oyster Reefs - These are currently producing oyster areas open to harvest by the public.

Secondary Impacts - Those impacts that result from uses ancillary to, or as a consequence of, an initial development, for example: the need to provide housing areas for workers may be a secondary impact of developing a new manufacturing plant in an area.

Shoreline Stabilization Structures - man-made structures, such as bulkheads, used to prevent or reduce erosion or modification of shorelines

Submerged Vegetation - Rooted vegetation normally completely immersed in coastal waters even at low tide.

Unmodified or Biologically Productive Wetlands - Wetlands in which the intervention of man has caused minimal impacts on biological productivity.

APPENDIX n
MEMORANDA OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING BETWEEN THE
COASTAL MANAGEMENT SECTION OF THE DEPARTMENT OF NATURAL RESOURCES
AND THE OFFICE OF CONSERVATION OF THE DEPARTMENT OF NATURAL RESOURCES

It is the purpose of this Memorandum of Understanding between the Coastal Management Section of the Department of Natural Resources (CMS/DNR) and the Office of Conservation of the Department of Natural Resources (OC/DNR) to establish an agreement on the issues and procedures involved in implementing the provisions of Title 49 of the Louisiana Revised Statutes of 1950. Sections 213.1 through 213.21, the State and Local Coastal Resources Management Act of 1978, as amended, in particular Sections 213.12B, 213.13 B and D, and 213.14.

In order to assist OC/DNR and CMS/DNR in meeting their lawful responsibilities, implement the in-lieu permit system, reduce conflicting decisions by the two agencies, assure conformity of action with the Louisiana Coastal Resources Program and reduce duplication of effort by applicants for permits, it is agreed that:

GENERAL

1. In-lieu permits are to be implemented by OC/DNR. OC/DNR shall have the responsibility for permitting activities occurring within the boundary of the coastal zone as set forth in the Act for which OC/DNR issued permits as of January 1, 1979, for the location, drilling, exploration and production of oil, gas, sulphur and other minerals. It is the intent of Section 213.12 B of Louisiana R.S. 49 that coastal use permits are not required for these activities.

2. The following list delineates those activities subject to an in-lieu permit issued by OC/DNR.

-Oil & gas activities subject to regulation pursuant to La. R.S. 30:1-36 204, 205, 213, and 215 and as provided for in statewide orders 29-B, 29-E, 29-H, & 28-J.

-Subsurface injection activities subject to regulation pursuant to La. R.S. 30:1 (D), 3 (C)(16) & the Louisiana Environmental Affairs Act, and as provided for in statewide order 29-N.

-Geothermal energy activities subject to regulation pursuant to La. R.S. 30:800-809, and as provided for in statewide 29-P.

-Uses of salt domes for storage subject to regulation pursuant to La. R.S. 30:22-23, and as provided for in statewide order 29-M.

-Letters of clearance for Intrastate Natural Gas Pipelines subject to regulation pursuant to La. R.S. 30:554, 555, 557 and 560, and as provided for in La. Reg. 4-76.

OC/DNR will issue in-lieu permits only if the proposed activity is consistent with the Coastal Use Guidelines, the Louisiana Coastal Resources Program and affected approved local programs.

3. CMS/DNR shall issue coastal use permits for the following aspects of the above activities in accordance with the Louisiana Coastal Resources Program, the guidelines and approved local programs:
 - Dredging of canals, slips and channels
 - Filling of waterbottoms, marsh, or other wetlands
 - Disposal of dredged spoil
 - Building of board roads
 - Designation of access routes
 - Construction of auxiliary structures, such as wharfs, piers, bulkheads, etc., not presently regulated by a statewide order.
 - Maintenance dredging

IN-LIEU PERMIT PROCEDURES

1. OC/DNR will forward copies of all in-lieu permit applications to CMS/DNR within two working days. CMS/DNR will distribute copies of the application to other affected governmental agencies. OC/DNR will give public notice of all in-lieu permit applications in a manner similar to that provided for by CMS/DNR regulations and will provide an opportunity for public comment and public hearing.
2. CMS/DNR will review the in-lieu permit application and comments received from other agencies and the public to make a determination as to whether or not the activities comply with the Coastal Use Guidelines, the Coastal Resources Program and any affected approved local program. CMS/DNR will notify OC/DNR of its determination within thirty days of receipt of

the application.

3. The Administrator of CMS/DNR, or his designee, and the Commissioner of Conservation, or his designee, shall meet when necessary to resolve conflicts between the two agencies on in-lieu permits. In the event they cannot mutually resolve the conflicts, the Secretary of the Department of Natural Resources will be notified, and the process set forth in Section 213.13 D of Louisiana R.S. 49 shall be initiated. Upon receipt of the written comments stating the basis for the decision, from the Secretaries acting jointly, CMS/DNR and OC/DNR shall take the actions recommended by the Secretaries.
4. OC/DNR and CMS/DNR will coordinate closely in establishing typical permit conditions for activities requiring an in-lieu permit in the coastal zone in order to assure that those activities are conducted consistently with the Coastal Resources program and the guidelines, to reduce permit review time and increase predictability.
5. OC/DNR will notify CMS/DNR of any work permits or abandonments and will assure that such activities are in compliance with the Coastal Resources Program, the guidelines and affected approved local programs.
6. OC/DNR will notify CMS/DNR of any public hearings held regarding activities requiring an in-lieu permit and will provide CMS/DNR with copies of all available materials regarding the matters at issue upon request. CMS/DNR staff may testify at any such hearing for purposes of making known the views of CMS/DNR regarding the use. OC/DNR will

incorporate CMS, DNR comments from these hearings into its decisions and subsequent actions.

7. OC/DNR and CMS/DNR will coordinate closely on alternative locations and methods of operation to assure that adverse impacts on coastal waters are minimized or avoided. CMS/DNR comments on applications for in-lieu permits will be given full consideration by OC/DNR. To implement this process, staff from the two agencies shall meet, whenever appropriate, to jointly review in-lieu permits and share expertise. OC/DNR will not issue in-lieu permits until CMS/DNR comments on in-lieu permit applications have been received and all conflicts resolved.

FIELD MONITORING AND COORDINATION OF ENFORCEMENT

1. OC/DNR and CMS/DNR will establish procedures for coordinating enforcement activities including coordinating surveillance and monitoring activities, exchanging information regarding violations and unilateral enforcement actions, coordinating cease and desist orders and coordinating civil or criminal actions against violators. OC/DNR has primary responsibility for the enforcement of the terms and conditions of coastal use permits.
2. OC/DNR field personnel and inspectors will, during their normal field inspections of activities conducted under an in-lieu permit monitor such activities for compliance with coastal management requirements.

3. CMS/DNR will provide OC/DNR personnel with materials and briefings which explain coastal management requirements.
4. OC/DNR and CMS/DNR agree that regulatory personnel may be exchanged during training courses or assignments in order to be informed of the other agency's permitting, enforcement and review program.

PUBLIC EDUCATION

1. CMS/DNR and OC/DNR will assist each other in notifying the oil and gas industry and mineral industry of the permit process established by this agreement and of which oil and gas activities require coastal use and in-lieu permits.

INTERAGENCY COORDINATION

1. CMS/DNR and OC/DNR agree that the two agencies will meet formally and informally as frequently as necessary and as needed to share field reports to determine the adequacy of existing Memorandum of Understanding, to discuss, with an intent to resolve, any conflicts which may arise, and develop and implement the coordinated coastal permitting process provided for by Section 213.14 of Louisiana R.S. 49.
2. CMS/DNR and OC/DNR agree to establish a joint permitting process for

oil and gas activities requiring in-lieu permits, coastal use permits and Corps of
Engineers permits for Section 404(b)(1) of the Clean Water Act of 1977.

Signed this 8th day of July, 1980.

RAY SUTTON, COMMISSIONER, Office of
Conservation of the Department of Natural Resources

FRANK A. ASHBY, JR., SECRETARY
Department of Natural Resources

MEMORANDUM OF AGREEMENT BETWEEN THE
COASTAL MANAGEMENT SECTION OF THE DEPARTMENT OF NATURAL
RESOURCES
AND THE ENVIRONMENTAL CONTROL COMMISSION AND THE OFFICE OF
ENVIRONMENTAL AFFAIRS OF THE DEPARTMENT OF NATURAL RESOURCES

It is the purpose of this Memorandum of Understanding between the Coastal Management Section of the Department of Natural Resources (CMS/DNR) and the Environmental Control Commission and the Office of Environmental Affairs of the Department of Natural Resources (ECC-OEA/DNR) to establish an agreement on the issues and procedures involved in implementing the provisions of Title 49, of the Louisiana Revised Statutes of 1950, particularly all or parts of the following sections: 213.2, 213.6, 213.8, 213.13. And 213.14, the State and Local Coastal Resources Management Act of 1978, as amended.

In order to assist ECC-OEA/DNR and CMS/DNR in meeting their lawful responsibilities, reduce conflicting decisions by the two agencies, assure conformity of action with the Louisiana Coastal Resources Program (LCRP) and reduce duplication of effort by applicants for permits, it is agreed that:

Permit Procedures

1. CMS/DNR will approve ECC-OEA/DNR notice of all coastal use permit applications and decisions for activities within the coastal zone as established by Louisiana R.S. 49 on a regular basis.
2. ECC-OEA/DNR, on a regular basis, will provide CMS/DNR notice of all permit applications, decisions, hearings, enforcement proceedings and similar administrative actions for the following

activities in the coastal zone, and notice of such applications and decisions for activities outside the coastal zone which may have significant impacts on the coastal zone or coastal waters:

- Transportation, storage and disposal of hazardous waste pursuant in general to Louisiana R.S. 30:1061-1067 and in particular pursuant to Louisiana R.S. 30:1131-1147, and regulations promulgated thereunder.
 - Transportation of out-of-state waste materials for storage or disposal (other than those generated by offshore mineral operations) pursuant to Louisiana R.S. 40:1299.36.
 - Activities requiring air quality permits pursuant in general to Louisiana R.S. 30:1061-1067 and in particular, 30:1081-1087, and regulations promulgated thereunder.
 - Activities requiring water quality permits pursuant in general to Louisiana R.S. 30:1061-1067 and in particular to Louisiana R.S. 30:1091-1096, 38:216, and regulations promulgated thereunder.
 - Use and disposal of radioactive materials pursuant in general to Louisiana R.S. 30:1061-1067 and in particular Louisiana R.S. 30:1101-1116.
3. ECC-OEA/DNR will provide CMS/DNR appropriate comments on coastal use permit applications regarding impacts on matters subject to ECC-OEA/DNR authority. Such comments shall be provided to CMS/DNR within 25 days of receipt of the copy of the application. All comments will be reviewed by CMS/DNR and incorporated in permit decisions to the maximum extent practicable.

Permit Consistency

4. CMS/DNR will condition the approval of all coastal use permits and all consistency decisions on compliance with the rules and regulations of ECC-OEA/DNR and the applicant obtaining all permits required by ECC-OEA/DNR and complying with the terms and conditions thereof. Failure to obtain a required ECC-OEA/DNR permit or to comply with its terms will be a basis for revocation of the coastal use permit.
2. ECC-OEA/DNR will condition issuance of permits for uses and activities in the coastal zone on the applicant's first obtaining any required coastal use permit or permit from an approved local program and on complying with all terms and conditions thereof.

Interagency Coordination

1. CMS/DNR and ECC-OEA/DNR agree that the two agencies will meet formally and informally as frequently as necessary and as needed to share reports on activities in the coastal zone, review all aspects of the agencies' relationship, determine the adequacy of the existing Memorandum of Understanding and the need for expanding and/or revising the existing Memorandum of Understanding and to discuss with an intent to resolve any conflicts which may arise.
2. CMS/DNR and ECC-OEA/DNR agree that the two agencies will meet and develop a coordinated coastal permitting process as set forth in Section 213.14 of Louisiana R.S. 49.

Conflict Resolution

1. In the event that CMS/DNR should find that ECC-OEA/DNR is issuing permits which are not consistent to the maximum extent practicable with the state coastal management program or approved local program, and which might significantly affect land and water resources within the coastal zone, CMS/DNR shall report this to the Secretary of DNR for his review and determination as to whether the actions of ECC-OEA/DNR are consistent. If the Secretary of DNR determines there is an inconsistency, the process set forth in Section 213.13 D of Louisiana R.S. 49 shall be initiated. Upon receipt of the written comments stating the basis for the decisions from the secretaries acting jointly, ECC-OEA/DNR and CMS/DNR shall take the actions recommended by the secretaries.

Effective Date and Termination Consent

1. This agreement will be effective when signed and dated by the parties hereto and may be terminated, with approval of the Governor, by mutual consent of the parties hereto or by either party after 60 days notice of intent to terminate.

Signed this 11th day of July, 1980.

FRANK A. ASHBY, JR. CHAIRMAN
Environmental Control Commission
Department of Natural Resources

B. JIM PORTER, ASSISTANT SECRETARY
Office of Environmental Affairs,
Department of Natural Resources

MEMORANDUM OF UNDERSTANDING BETWEEN
THE COASTAL MANAGEMENT SECTION OF THE DEPARTMENT OF NATURAL
RESOURCES AND THE DEPARTMENT OF HEALTH AND HUMAN RESOURCES

It is the purpose of this Memorandum of Understanding between the Coastal Management Section of the Department of Natural Resources (CMS/DNR) and the Department of Health and Human Resources (DHHR) to establish an agreement on the issues and procedures involved in implementing the provisions of Louisiana Revised Statute 49, the State and Local Coastal Resources Management Act of 1978, as amended, particularly all or parts of the following sections applicable to DHHR: 213.2, 213.5, 213.8, 213.19, 213.11, 213.12, 213.13, and 213.14.

In order to assist DHHR and CMS/DNR in meeting their lawful responsibilities, reduce conflicting decisions by the two agencies, assure conformity of action with the Louisiana Coastal Resources Program, and reduce duplication of effort by applicants for permits, it is agreed that:

Permit Procedures

1. CMS/DNR will provide DHHR with notification of all applications received for activities within the coastal zone as established by La. R.S. 49 and CMS/DNR will notify DHHR of all permit decisions.
2. DHHR will provide CMS/DNR notice of all request of approvals received for activities in the coastal zone and DHHR will provide CMS/DNR copies of all final permits or grants for activities in the coastal zone.

3. DHHR will provide appropriate comments on coastal use permit applications, after review, for those that impact public health. Such comments shall be provided to CMS/DNR within 25 days of receipt of the copy of the application. All comments will be reviewed by CMS/DNR and incorporated in permit decisions to the maximum extent practicable.

Permit Consistency

1. CMS/DNR will condition the granting of approved coastal use permits for uses and activities in the coastal zone so that they conform with the rules and regulations of DHHR.
2. DHHR agrees that any activities directly affecting the coastal zone that it undertakes, conducts, supports or permits will be consistent to the maximum extent practicable with the State Coastal Resources Program and affected approved local programs having geographical jurisdiction over the action. DHHR will condition its permits for activities in the coastal zone on the applicant obtaining and complying with the terms of a coastal use permit, if one is required.
3. DHHR will coordinate all grant activities, federal or state, with CMS/DNR in either the preliminary planning or the pre-grant stage to assure that works affecting the coastal zone which are constructed pursuant to these grants are consistent with the Coastal Resources Program and all affected approved local programs.

Interagency Coordination

1. CMS/DNR and DHHR agree that the two agencies will meet formally and informally as frequently as necessary and as needed to share field reports on activities in the coastal zone, review all aspects of the agency's relationship, determine the adequacy of the present Memorandum of Understanding and the need for expanding and/or revising the present Memorandum of Understanding, and to discuss with an intent to resolve any conflicts which may arise.
2. CMS/DNR and DHHR agree that the two agencies will meet and develop a unified coastal permitting process as set forth in Section 213.14 of La. R.S. 49.

Conflict Resolution

1. In the event that CMS/DNR should find that DHHR is issuing permits, conducting activities or providing funds for activities which are not consistent to the maximum extent practicable with the state coastal management program, CMS/DNR shall report this to the Secretary of DNR for his review and determination as to whether the actions of DHHR are consistent. The Secretary of DNR and the Secretary of DHHR will then meet to determine a proper course of action to insure consistency.

Effective Date and Termination Consent

1. This agreement will be effective when signed and dated by the parties hereto and may be terminated at any time, with approval

of the Governor, by mutual consent of the parties hereto or by either party after 60 days notice of intent to terminate.

Signed this 28th day of July, 1980.

FRANK A. ASHBY, JR. SECRETARY
Department of Natural Resources

GEORGE A. FISCHER, SECRETARY
Department of Health and Human Resources

MEMORANDUM OF UNDERSTANDING BETWEEN THE
COASTAL MANAGEMENT SECTION OF THE DEPARTMENT OF NATURAL
RESOURCES
AND THE BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

It is the purpose of this Memorandum of understanding between the Coastal Management Section of the Department of Natural Resources (CMS/DNR) and the Board of Commissioners of the Port of New Orleans (Port) to establish an agreement on the issues and procedures involved in implementing the provisions of Title 49 of the Louisiana Revised Statutes of 1950, the State and Local Coastal Resources Management Act of 1978, as amended, in particular the provisions of 213.13(A) and 213.13(D).

In order to assist the Port and CMS/DNR in meeting their lawful responsibilities, reduce conflicting decisions by the two agencies, assure conformity of action with the Louisiana Coastal Resources Program (LCRP) and reduce duplication of effort by applicants for permits, it is agreed that:

Coordination of Activities

1. The port will coordinate with CMS/DNR and affected approved local programs at a preliminary planning/preconstruction stage as to all proposed construction activities to be carried out by the Port in order to assure that works affecting the coastal zone are consistent with the LCRP and all affected approved local programs.
2. The Port agrees that all activities undertaken by it will be consistent to the maximum extent practicable with the LCRP and all affected approved local programs.

3. CMS/DNR will provide the Port with notice of all coastal use permit applications received for activities in Jefferson, Orleans, St. Bernard and Plaquemines Parishes and CMS/DNR will notify the Port of all permit decisions.

Development of Special Area Designation

The CMS/DNR intends to propose the designation of a special area pursuant to 213.10 of Louisiana R. S. 49 which will encompass lands and waters within the geographical area subject to the jurisdiction of the Port. It is agreed that CMS/DNR and the Port will work together to develop such a special area designation and the management regime for the special area. It is intended that the designation process outlined by rule of CMS/DNR be instituted as soon as practicable and as soon as an agreement on the terms, guidelines and priorities of use can be reached between CMS/DNR and the Port.

Interagency Coordination

1. CMS/DNR and the Port agree that the two agencies will meet formally and informally as frequently as necessary to review proposed activities or permit applications, review all aspects of the agencies' relationship, determine the adequacy of existing Memorandum of Understanding and the need for expanding and/or revising existing Memorandum of Understanding, and to discuss, with an intent to resolve, any conflicts which may arise.

Conflict Resolution

In the event that CMS/DNR should find that the Port is proposing or conducting activities, or providing funds for activities which are not consistent to the maximum extent practicable with the LCRP and affected approved local programs, the Secretary of the Department of Natural Resources will be notified, and the process set forth in Section 213.13D of Louisiana R.S. 49 shall be initiated. The written comments received from the secretaries shall, to the maximum extent practicable, be incorporated into the action commented upon.

Effective Date and Termination

1. This agreement will be effective when signed and may be terminated with approval of the Governor, by mutual consent of the parties hereto or by either party after 60 days notice of intent to terminate.

Signed this 31st day of July, 1980.

EDWARD S. REED, EXECUTIVE PORT
DIRECTOR, Port of New Orleans

FRANK A. ASHBY, JR., SECRETARY
Department of Natural Resources

MEMORANDUM OF UNDERSTANDING BETWEEN
THE COASTAL MANAGEMENT SECTION OF THE DEPARTMENT OF NATURAL
RESOURCES
AND THE DEPARTMENT OF CULTURE, RECREATION AND TOURISM

It is the purpose of this Memorandum of Understanding between the Coastal Management Section of the Department of Natural Resources (CMS/DNR) and the Department of Culture, Recreation and Tourism (DCRT) to establish an agreement on the issues and procedures involved implementing the provisions of Louisiana Revised Statute 49, the State and Local Coastal Resources Management Act of 1978, as amended, particularly all or parts of the following sections applicable to DCRT; 213.2, 213.5, 213.8, 213.10, 213.11, 213.12, 213.13 and 213.14.

In order to assist DCRT and CMS/DNR in meeting their lawful responsibilities, reduce conflicting decisions by the two agencies, assure conformity of action with the Louisiana Coastal Resources program and reduce duplication of effort by applicants for permits, it is agreed that:

Permit Procedures

1. CMS/DNR will provide DCRT with notification of all applications received for activities within the coastal zone which might impact state parks or recreational resources or state cultural or historic resources and CMS/DNR will notify DCRT of all permit decisions.
2. DCRT will provide CMS/DNR copies of all applications received for activities in the coastal zone and DCRT will provide

- CMS/DNR copies of all final permits or grants for activities in the coastal zone.
3. CMS/DNR will require applicants to submit sufficient information on coastal use permit applications for DCRT to adequately review them for impacts on state parks, recreational, historic and cultural resources.
 4. DCRT will provide appropriate comments on coastal use permit applications, after review of impacts to the state parks, recreational, historical and cultural resources. Such comments shall include those of the Office of State Parks and the State Historic Preservation Officer and shall be provided to CMS/DNR within 21 days of receipt of the copy of the application. If no comments are provided within the 21 day period, it shall be presumed that DCRT and the Office of State parks and the State Historic Preservation Officer have no objections to the proposed activity. All comments will be reviewed by CMS/DNR and incorporated in permit decisions to the maximum extent practicable.

Permit Consistency

1. CMS/DNR will condition the granting of approved coastal use permits for uses and activities in or impacting on state parks, recreational, state cultural and historical resources so that they are in compliance with terms of any permit or approval required by DCRT.

2. CMS/DNR will condition the approval of coastal use permits on compliance with DCRT's Cultural Resources Code requirements after its promulgation.
3. DCRT agrees that any activities directly affecting the coastal zone it undertakes, conducts, supports or permits, including state parks and recreational facilities in the planning and/or development stages, will be consistent to the maximum extent practicable with the State Coastal Resources Program and affected local programs having geographical jurisdiction over the action. DCRT will condition its permits for activities in the coastal zone on the applicant obtaining and complying with the terms of a coastal use permit, if one is required.

Interagency Coordination

1. DCRT will share with and/or provide to CMS/DNR information on known park, recreational, cultural and historic resources when requested by CMS/DNR and will notify CMS/DNR of all state park, recreational and park access development in preliminary planning stages.
2. CMS/DNR and DCRT agree that the two agencies will meet formally and informally as frequently as necessary and as needed to review all aspects of the agency's relationship, determine the adequacy of existing Memorandum of Understanding, and the need for expanding and/or revising

the present Memorandum of Understanding, and to discuss with intent to resolve, any conflicts which may arise.

3. CMS/DNR and DCRT agree that the two agencies will meet and develop a united coastal permitting process as set forth in Section 213.14 of La. R.S. 49.

Conflict Resolution

1. In the event CMS/DNR should find that DCRT is issuing permits, conducting activities or providing funds for activities which are not consistent to the maximum extent practicable with the State Coastal Management Program, CMS/DNR shall report this to the Secretary of DNR for his review and determination as to whether the actions of DCRT are consistent. The Secretary of DNR and the Secretary of DCRT will then meet to determine a proper course of action to insure consistency.

Effective Date and Termination Consent

1. This agreement will be effective when signed and dated by the parties hereto and may be terminated at any time, with approval of the Governor, by mutual consent of the parties hereto or by either party after 60 days notice of intent to terminate.

FRANK A. ASHBY, JR., SECRETARY
Department of Natural Resources

Signed this 31st day of
July 1980.

MRS. LAWRENCE FOX, SECRETARY
Department of Culture, Recreation
and Tourism

MEMORANDUM OF UNDERSTANDING BETWEEN
THE COASTAL MANAGEMENT SECTION OF THE DEPARTMENT OF
NATURAL RESOURCES AND THE DIVISION OF STATE LANDS
OF THE DEPARTMENT OF NATURAL RESOURCES

It is the purpose of this Memorandum of Understanding between the Coastal Management Section of the Department of Natural Resources (CMS/DNR) and the Division of State Lands of the Department of Natural Resources (DSL/DNR) to establish an agreement on the issues and procedures involved in implementing the provisions of Title 49 of the Louisiana Revised Statutes of 1950, the State and Local Coastal Resources Act of 1978, as amended, and the State Water Bottoms Act, Louisiana Revised Statutes 49:1172(d).

In order to assist DSL/DNR and CMS/DNR in meeting their lawful responsibilities, reduce conflicting decisions by the two agencies, assure conformity of action with the Louisiana Coastal Resources program and reduce duplication of effort by applicants for permits, it is agreed that

Permit Procedures

1. CMS/DNR will provide DSL/DNR with notice of all coastal use permit applications and decisions for activities within the coastal zone on a regular basis.
2. DSL/DNR will provide CMS/DNR notice of all applications and final permits or leases for the following activities within the coastal zone on a regular basis:
reclamation of lands lost through erosion, construction of wharfs, piers, bulkheads, fills or other encroachments requiring

class A, B, C, D, and E permits pursuant to the State Water Bottoms Management Act, Louisiana R.S. 41:1131, 41:1701-1714, 9:1101, 5 Louisiana Reg. 8.

Pipelines and other structures on or under state waterbottoms subject to regulation pursuant to Louisiana R.S. 30:4-H and 30:24.

- Leasing of state lands for storage and transportation of hydrocarbons pursuant to Louisiana R.S. 41:1261-1269, 41:1173-74.
 - Leasing of state lands for purposes other than mineral operation pursuant to Louisiana R.S. 41:1211-1223, 41:1501-1506.
 - Leasing of state lands for oil, gas, and other mineral operations pursuant to Louisiana R.S. 30:151-156, 158-159, 171, 208, 209, 209.1, 3 Louisiana Reg. 473, 4 Louisiana Reg. 210.
3. CMS/DNR will notify applicants for coastal use permits for activities contemplated to take place on state owned lands or waterbottoms that a lease and permit from DSL/DNR may be required and that a processing fee will be required to be paid directly to DSL/DNR. DSL/DNR will notify applicants for permits and leases that a coastal use permit may be required.
 4. In the event that opportunity for public hearing is deemed necessary by either agency, all efforts will be made to accommodate the applicant by holding one hearing on all permit or lease applications required for the proposed activity.

Coordination on Permit Decisions

1. DSL/DNR will provide appropriate comments on coastal use permit applications after review of impacts to state owned

properties. CMS/DNR will provide appropriate comments of applications for DSL/DNR and surface leases after review for consistency with the Louisiana Coastal Resources Program (LCRP). The comments shall be provided within 25 days of receipt of the copy of the application. If no comments are provided within the 25 day period, it shall be presumed that there is no objection to the proposed use. CMS/DNR and DSL/DNR will confer on permit and surface lease applications when useful. Comments received will be incorporated into the permit or surface lease decision to the maximum practicable extent.

2. CMS/DNR will condition the issuance of coastal use permits upon the applicant obtaining all required surface leases and permits from DSL/DNR and on complying with all terms and conditions thereof. Failure to obtain a required DSL/DNR surface lease or permit or to comply with its terms will be a basis for revocation of the coastal use permit.
3. DSL/DNR will condition the issuance of its surface leases and permits upon the applicant obtaining a coastal use permit, if required, and on complying with all terms and conditions thereof. Failure to obtain a required coastal use permit or to comply with its terms will be a basis for revocation of the surface lease or permit.
4. DSL/DNR will consider, and decisions on surface leases and permits shall be consistent with, the coastal use guidelines, the state program and affected approved local programs.
5. No work shall commence until the applicant has obtained all

required leases and permits from CMS/DNR, approved local coastal programs, and DSL/DNR.

Monitoring and Enforcement

1. CMS/DNR and DSL/DNR will assist each other in monitoring permitted uses for permit violations. If violations are noted, the other agency will be notified. The agencies will thereafter assist each other and will coordinate enforcement actions as appropriate, to avoid duplication of effort.
2. Joint enforcement actions will be undertaken whenever practical, including the filing of civil and criminal actions.
3. CMS/DNR and DSL/DNR will assist each other in assuring that all legislative and administrative requirements of their respective programs are met.

Interagency Coordination

1. CMS/DNR and DSL/DNR agree that the two agencies will meet formally and informally as frequently as necessary and as needed to review all aspects of the agency's relationships, determine the adequacy of existing Memorandum of Understanding, and the need for expanding and/or revising the present Memorandum of Understanding, and to discuss, with an intent to resolve, any conflicts which may arise.

Conflict Resolution

1. In the event that CMS/DNR should find that DSL/DNR is issuing

permits which are not consistent to the maximum extent practicable with the state coastal management program or approved local program, CMS/DNR shall report this to the Secretary of DNR for his review and determination as to whether the actions of DSL/DNR are consistent. If the Secretary of DNR determines there is an inconsistency, the process set forth in Section 213.13 D of Louisiana R.S. 49 shall be initiated. Upon receipt of the written comments stating the basis for the decision from the secretaries acting jointly, DSL/DNR and CMS/DNR shall take the actions recommended by the secretaries.

Effective Date and Termination Consent

1. This agreement will be effective when signed and dated by the parties hereto and may be terminated at any time, with approval of the Governor, by mutual consent of the parties hereto or by either party after 60 days notice of intent to terminate.

Signed this 8th day of July, 1980.

FRANK A. ASHBY, JR. SECRETARY
Department of Natural Resources

MIKE BOURGEOIS
Department of Natural Resources
Division of State Lands

MEMORANDUM OF UNDERSTANDING BETWEEN
THE COASTAL MANAGEMENT SECTION OF THE DEPARTMENT OF NATURAL
RESOURCES
AND THE DEPARTMENT OF AGRICULTURE

It is the purpose of this Memorandum of Understanding between the Coastal Management Section of the Department of Natural Resources (CMS/DNR) and the Department of Agriculture (DOA) to establish an agreement on the issues and procedures involved in implementing the provisions of Louisiana Revised Statute 49, the State and Local Coastal Resource Management Act of 1978, as amended, particularly all or parts of the sections applicable to DOA.

Permit Procedures

1. CMS/DNR will provide DOA a notice of all applications for coastal use permits and will provide copies of those applications which would impact agricultural resources and the uses of pesticides.
2. DOA will provide appropriate comments on coastal use permit applications, after review of impacts to agricultural resources. Such comments shall be provided to CMS/DNR within 25 days of receipt of the copy of application. If no comments are received within 25 days, it shall be presumed that DOA has no objection to the proposed activity. All comments will be reviewed by CMS/DNR and incorporated in permit decisions to the maximum extent practicable.

Permit Consistency

1. DOA agrees that any grant activities, and other activities, including investigations of misuse of pesticides, directly affecting the coastal zone that it undertakes, conducts, approves, supports or permits, will be consistent to the maximum extent practicable with the State Coastal Resources Program and affected approved local programs having geographical jurisdiction over the action.

Interagency Coordination

1. DOA will share with and/or provide CMS/DNR information on agricultural resources when requested by CMS/DNR and will notify CMS/DNR on any new agricultural developments in the coastal zone when it is in its preliminary planning stages.
2. CMS/DNR and DOA agree that the two agencies will meet formally and informally as frequently as necessary and as needed to review all aspects of the agency's relationships, determine adequacy of existing Memorandum of Understanding, and the need for expanding and/or revising the present Memorandum of Understanding, and to discuss with an intent to resolve, any conflicts which may arise.

Conflict of Interest

1. In the event that CMS/DNR should find that DOA is issuing permits, conducting activities or providing funds for activities which are not consistent to the maximum extent practicable with the State Coastal Management Program, CMS/DNR

shall report this to the Secretary of DNR for his review and determination as to whether the actions of DOA are consistent. The Secretary of Dnr and the Commissioner of Agriculture will then meet to determine a proper course of action to insure consistency.

Effective Date and Termination Consent

1. This agreement will be effective when signed and dated by the parties hereto and may be terminated at any time, with approval of the Governor, by mutual consent of the parties hereto or by either party after 60 days notice of intent to terminate.

Signed this 10th day of July, 1980.

FRANK A. ASHBY, JR., SECRETARY
Department of Natural Resources

ROBERT ODOM, COMMISSIONER
Department of Agriculture

MEMORANDUM OF UNDERSTANDING BETWEEN THE
COASTAL MANAGEMENT SECTION OF THE DEPARTMENT OF NATURAL
RESOURCES AND THE DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

It is the purpose of this Memorandum of Understanding between the Coastal Management Section of the Department of Natural Resources (CMS/DNR) and the Department of Transportation and Development (DOTD) to establish an agreement on the issues and procedures involved in implementing the provisions of Title 49 of Louisiana Revised Statutes of 1950, Sections 213.1 through 213.21, the State and Local Coastal Resources management Act of 1978, as amended, in particular Sections 213.13 (B) and (D).

In order to assist DOTD and CMS/DNR in meeting their lawful responsibilities, reduce conflicting decisions by the two agencies and assure conformity of action with the Louisiana Coastal Resources Program, it is agreed that:

INTERGOVERNMENTAL COORDINATION AND CONSISTENCY

DOTD will provide notice to CMS/DNR of intent to conduct activities, including planning and construction, that directly affect the coastal zone. DOTD and CMS/DNR agree that the two agencies will meet formally and informally as frequently as necessary and as needed to review all aspects of the agencies' relationship, determine adequacy of existing memorandum of understanding, and the need for expanding and/or revising the present memorandum of understanding, and to discuss, with an intent to resolve, any conflicts which may arise.

CONFLICT OF INTEREST

1. In the event that CMS/DNR should find that DOTD is conducting activities or providing funds for activities which are not consistent to the maximum extent practicable with the state coastal management program, CMS/DNR shall report this to the Secretary of DNR for his review and determination as to whether the actions of DOTD are consistent. The Secretary of DNR and the Secretary of DOTD will then meet to determine a proper course of action to insure consistency.

EFFECTIVE DATE OF TERMINATION CONSENT

1. This agreement will be effective when signed and dated by the parties hereto and may be terminated at anytime, with approval of the Governor, by mutual consent of the parties hereto or by either party after sixty days notice of intent to terminate.

Signed this 29th day of July, 1980.

FRANK A. ASHBY, JR., SECRETARY
Department of Natural Resources

PAUL J. HARDY, SECRETARY
Department of Transportation and Development

APPENDIX o
DRAFT MEMORANDUM OF UNDERSTANDING BETWEEN
THE COASTAL MANAGEMENT SECTION OF THE DEPARTMENT OF NATURAL
RESOURCES
AND THE U.S. ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT

PURPOSE

The provisions of the Coastal Zone Management Act of 1972, as amended, 16 USC 1451 et seq; the Clean Water Act of 1977, 33 USC 1344; and the State and Local Coastal Resources Management Act, Act 361 of the 1978 Louisiana Legislature, direct and encourage the U.S. Army Corps of Engineers (COE) and the Coastal Management Section of the Department of Natural Resources (CMS/DNR) to develop a coordinated and consistent relationship in dealing with dredge and fill and other activities affecting Louisiana's coastal waters and wetlands. Of primary interest are the development of a joint or coordinated permitting and enforcement process and a process for assuring coordinated permitting and enforcement process and process for assuring consistency in decision-making. It is the purpose of this memorandum of understanding to establish a general agreement on the issues involved in developing such a relationship and to outline the general manner of interaction between CMS/DNR and COE appropriate to implement such a relationship and to agree that such a relationship is necessary, appropriate and beneficial to the national interest and the interests of Louisiana.

CONTACTS

The CMS/DNR is the lead agency for coastal management in Louisiana pursuant to Act 361 and, as such, will be the contact agency for purposes of this agreement.

The Regulatory Functions Branch, Operations Division, and the Regional Planning Branch, Planning Division, are contact offices in the COE, New Orleans District for coastal zone management pursuant to this agreement.

JURISDICTION

The primary authority of the CMS/DNR is over those uses of the lands and water within the boundary set forth in Act 361 which have direct and significant impacts on coastal waters. The CMS also has the authority to review for consistency with the coastal management program those governmental actions outside of the coastal zone which may significantly affect coastal resources within the coastal zone.

The COE has permitting authority over discharge of dredge and fill activities in the waters of the United States pursuant to the Clean Water Act of 1977, disposal of dredged materials in ocean waters pursuant to the Marine Protection Research and Sanctuaries Act of 1972, and over activities in navigable waters of the United States pursuant to the River and Harbor Act of 1899. The COE also has responsibility for conducting numerous activities which affect coastal resources pursuant to congressional authorization.

JOINT OR COORDINATED PERMITTING PROCESS

The CMS/DNR and the COE will develop procedures which, to the extent feasible, will result in a single application form for both coastal use permits and COE permits, a "one-window" system for filing applications; and a coordinated review process which ensures timely decisions on applications. If possible, the issuance of single, joint permits for both coastal use permits and COE permits will be agreed upon.

JOINT PUBLIC NOTICES

The CMS/DNR and the COE will establish procedures for the issuance of joint public notice for notification of the public of applications for permits, decisions thereon, enforcement activities and issuances of general permits or variances.

JOINT PUBLIC HEARINGS

The CMS/DNR and the COE will establish procedures for eliminating duplicated public hearings on COE and coastal use permit applications wherein public hearings held shall be on behalf of both agencies. Joint public hearings will only be held if both CMS and this District agree to it.

COORDINATION OF ENFORCEMENT ACTIVITIES

The CMS/DNR and the COE will establish procedures for coordinating enforcement activities. This will include coordination of surveillance and monitoring activities, exchange of information regarding violations and unilateral enforcement actions; coordinated cease and desist orders and coordinated civil or criminal actions against violators where feasible.

COORDINATION OF STANDARDS FOR REVIEWING PERMIT APPLICATIONS

The CMS/DNR and the COE agree that in reviewing permit applications each will, to the extent feasible, give full considerations to the regulations, standards, and guidelines of the other agency in order to minimize inconsistent decisions or positions on applications.

the issuance of permits, projects carried out directly by this District, and projects funded by this District by contract, loan, grant, guarantee or otherwise. In order to evaluate consistency, the CMS/DNR and this District agree to establish procedures for notification of the CMS/DNR at the earliest possible time on this District's actions, for prompt CMS/DNR review and prompt notification of this District of the CMS/DNR determination.

ONGOING LIAISON AND COORDINATION

The CMS/DNR and the COE agree to establish effective lines of communication to assure that this and all subsequent memoranda of understanding are implemented as smoothly as possible and to maintain good working relations between the agencies. It is agreed that regulatory function or coastal use permit personnel may be exchanged during training courses or assignments in order to be informed of the respective permitting, enforcement and review programs. It is further agreed that both agencies will meet formally and informally as frequently as need to review all aspects of the agency relationships, determine the adequacy of existing memorandum of understanding, the need for expansion, revision or change in memorandum of understanding, and to discuss and attempt to resolve any conflicts which may arise.

COORDINATION OF PLANNING AND TECHNICAL STUDIES

It is agreed that the CMS/DNR and the COE will establish liaisons for the purpose of closely coordinating technical studies and planning which may affect the coastal area of Louisiana.

LIMITATIONS ON ASSISTANCE

Any assistance furnished by the COE under this agreement will be subject to the limitations of its legislative authorities, the regulations of the Department of the Army, Federal consistency regulations (now 15 C.F.R. 930.1 et seq. (43 Fed. Reg. 10510(1978), and the availability of funds and personnel. Cooperation by the District in carrying out this agreement will be subject to the limitation of the laws establishing the District and the availability of funds and personnel.

EFFECTIVE DATE AND TERMINATION

This agreement will be effective when signed, and may be terminated at any time by mutual consent of the parties hereto, or by either party after sixty days notice of intent to terminate.

Signed this _____ day of _____, 1980.

FRANK A. ASHBY, JR. SECRETARY
Department of Natural Resources

COLONEL TOM SANDS
U.S. Army Corps of Engineers,
New Orleans District

RESPONSES TO COMMENTS RECEIVED ON THE STATE OF LOUISIANA COASTAL
RESOURCES PROGRAM AND DRAFT ENVIRONMENTAL IMPACT STATEMENT

This section summarizes the oral and written comments received on the Louisiana Coastal Resources Program and Draft Environmental Impact Statement (DEIS) and provides the Office of Coastal Zone Management (OCZM) responses to these comments. Oral comments were received at three public hearings on the DEIS: in New Orleans on October 30, 1979, in Houma on October 31, and in Abbeville on November 1. Generally, the responses have been made in one or more of the following ways:

- (1) Revision of the Louisiana Coastal Resources Program by the Louisiana Department of Natural Resources, Coastal Management Section (CMS/DNR).
- (2) Revision of the Draft Environmental Impact Statement by OCZM.
- (3) Generic responses to comments raised by several reviewers.
- (4) Individual responses to the individual comments made by each reviewer.

Generic Responses: Issues of Concern Raised by Several Reviewers

A. Program Balance and Predictability

B. Guideline 1.8

C. Exemptions

D. Mitigation

E. Inland Coastal Zone Boundary

F. Cumulative Impacts

G. Program Coordination

H. Inadequacies of the DEIS

I. Annual Program evaluations

Generic Response A: Program Balance and Predictability

A large number of reviewers commented on the approach and specificity of the coastal use guidelines. While many comments addressed specific guidelines, in particular guideline 1.8, two broad categories of comments concerning the guidelines emerged. One group objected to the guidelines on the basis that they represented an "environmental protection" concept rather than a "multiple use" concept as envisioned by the CZMA and Act 361. A second group of commentators objected to the guidelines on the basis that they were too vague and ambiguous, and generally did not provide for predictable decision making, particularly with regard to resource protection issues as required by the CZMA and OCZM regulations. Thus, while the two groups have approached the issue of the guidelines from somewhat different perspectives, their concerns relate to the overlapping issues of program balance and predictability. For this reason they have been combined in this generic comment and response. The related issues of guideline 1.8 and mitigation are discussed in Generic Responses B and D respectively.

The first group of reviewers objected to the coastal use guidelines on the grounds that they represent an "environmental protection" plan rather than a "multiple use" plan. These reviewers generally believe that the program does not adequately balance preservation and development needs, resulting in unnecessary and severe adverse economic impacts due to a lack of consideration of economic and social needs. Several reviewers commented that the guidelines contain a distinct bias against further development in the coastal zone, and in favor of the perpetuation of existing physical conditions. Another commentator stated that the guidelines fail to provide adequate provisions for population growth and economic development because the guidelines seek to restrict future development of the coastal zone to areas already developed.

The second broad category of commentators expressed opinions in many cases diametrically opposed to those of the first group. This group included environmental groups and resource protection and/or management agencies. They stated that the guidelines fail to adequately predict the degree to which resources would be developed or protected. Citing what they believe is excessive ambiguity, conflicting phraseology, and lack of clear standards, this group of commentators was concerned that the guidelines leave too much discretion to decision makers. They believe that such discretion will be abused in favor of development, resulting in the unnecessary alteration of sensitive coastal resources, such as, coastal wetlands. A number of these reviewers based this prediction on Louisiana's perceived "poor track record" in wetlands management.

It is first useful to discuss the requirements of the CZMA and its implementing regulations. There has been considerable controversy concerning whether the CZMA requires the development of "resource protection" or "resource management" programs. Although the CZMA emphasizes resource protection, OCZM has concluded that the CZMA does not exclude resource use and development where appropriate. This conclusion is borne out by Section 302(a), which states that "there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone" (emphasis added). Similarly, Section 303(b) of the CZMA requires state programs to give "full consideration

to ecological, cultural, historic, aesthetic values as well as to the needs for economic development" (emphasis added). OCZM regulations outline the

consideration of both resource protection and development needs. 15 C.F.R. §923.3(b)(1) requires that "management programs provide for the management of the land and water uses having direct and significant impact on coastal waters while providing for the appropriate protection of those significant resources and areas, such as wetlands, beaches and dunes, and barrier islands, that make that State's coastal zone a unique, vulnerable or valuable area". 15 C.F.R. §923.3 (b)(2) requires that three broad categories of policies be included in state programs: resource protection policies, policies for the management of coastal development, and policies for the simplification of governmental processes.

On the other hand, the CZMA also directs state programs to give special consideration to the national interest involved in the planning for, and the siting of, facilities which are necessary to meet requirements which are other than local in nature. While 15 C.F.R. §923.52 requires that States consider such interest in "facilities", it encourages, but does not require, that various national interests regarding "resources" also be considered.

Program policies must be predictable to meet OCZM regulations. 15 C.F.R. §923.3(b)(4) states:

" The policies, standards, objectives, criteria, and procedures by which program decisions will be made must provide (i) a clear understanding of the content of the program, especially in identifying who will be affected by the program and how, and (ii) a clear sense of direction and predictability for decision makers who must take actions pursuant to or consistent with the management program."

The CZMA allows states considerable flexibility in developing their programs. States may, for example, utilize a zoning approach which delineates uses that are acceptable or not acceptable in a given area. While several States have employed this approach, the majority of States have used a "policy or performance standard" approach. This approach generally includes a comprehensive set of resource protection and development policies which regulate the acceptability of various types of uses in specific resource areas. In many cases, balancing criteria similar to the LCRP's guideline 1.8 are used. Permit decisions are then based on the application of these policies, a consideration of the positive and negative impacts of the use, and the feasibility of alternative sites or designs. OCZM regulations permit such an approach, provided that the policies or performance standards are sufficiently specific to enable persons affected by the program to have a reasonable understanding of what uses would be permitted in which location of the coastal zone and under what conditions (15 C.F.R. §923.11(b)(2)).

OCZM has carefully considered the comments received on these issues in light of the requirements of the CZMA. OCZM believes that many of the comments reflect an unclear understanding of either the guidelines and their operation or OCZM's requirements. In many instances, this may be the result of inadequate

discussion of the guidelines and their application in the DEIS. Consequently, OCZM requested CMS/DNR to expand the introductory material for the guidelines contained in Chapter II of the document. OCZM believes that these additions in the text and the specific responses below adequately address the comments received.

OCZM disagrees with commentators who believe that the LCRP constitutes an "environmental protection" plan which will unreasonably restrict development of the coastal zone. These commentators identified several portions of the guidelines which, in their opinion, unduly favor environmental protection objectives or fail to adequately consider economic and social needs. They note that guidelines 1.6 and 1.7 contain more factors relating to environmental effects than economic or social effects; i.e., of the 19 factors in guideline 1.6, three pertain to economic effects while 16 evaluate environmental effects. Of the 91 factors in guideline 1.7, only two relate to economic and social effects while 19 list environmental effects. One reviewer cited guidelines 6.1 and 6.2, as well as the definition of "development levees", as examples of a bias against economic development in general and as unreasonable restriction of development in areas that are presently undeveloped.

The guidelines identify impacts or activities to be avoided, encouraged or discouraged while providing the balancing mechanism of guideline 1.8. OCZM believes this is a reasonable and appropriate approach to decision making, with full consideration of social, economic and environmental factors. The guidelines contain few restrictions concerning the development of certain portions of the coastal zone, including fastlands, lands 5 feet above mean sea level, and other non-wetland areas. These areas should be available for development with Only limited restrictions imposed by the program. OCZM does not agree that the relative number of environmental or social economic factors listed in guidelines 1.6 and 1.7 result in a failure to consider social and economic needs. Guideline 1.8 clearly requires such a consideration.

Several reviewers representing the oil and gas industry stated that the national interest in oil and gas resources has not been adequately addressed by the program. These reviewers noted that oil and gas resources were not included in the discussion of national interest resources in Chapter VI and were not listed in Table VI-2, "Resources in Which There is a National Interest" (CEIS, page 118). One commentator suggested that the national interest in oil and gas would not be adequately considered because of the lack of specific criteria in guideline 1.7 and that the large number of environmental criteria in guideline 1.6 would outweigh the national interest criteria of guideline 1.6(m).

OCZM disagrees with this contention. All oil and gas "facilities" necessary for the development of oil and gas resources meeting the requirements of the CZMA are identified as national interest facilities in Chapter VI, thereby negating the need for oil and gas to be included a second time in the "resources" discussion of that section. The identification of these facilities in Chapter VI and the fact that most oil and gas facilities would be considered coastal water dependent under the definition of coastal water dependent uses on page 65 of the FEIS, ensures that such activities will receive full consideration in the guideline 1.8 balancing process.

OCZM believes that the additional textual materials in Chapter II adequately address concerns that the guidelines contain ambiguous and conflicting phraseology. A certain amount of discretion is always present in programs which seek to provide a balance between conservation and development. The amount of discretion in the guidelines is reasonable and meets the specificity and predictability required by OCZM regulations. See 15 C.F.R. §923.3(b) and §923.11(b)(2).

Several commentators expressed concern about potential abuses of discretion that may occur during implementation of the LCRP. These concerns are speculative and cannot legally be considered by OCZM in its review of the LCRP. OCZM has concluded that the guidelines are specific enough to enable administrative and judicial review of alleged abuses. Section 312 of the CZMA requires OCZM to review the implementation of each approved coastal program (see Generic Response I). One of the purposes of this annual evaluation will be to determine if there are any unjustified deviations from the approved LCRP that warrant termination or suspension proceedings. This process and the availability of judicial review will ensure effective program implementation.

A number of reviewers addressed the general issue of the predictability of the guidelines. Several commentators suggested that the present guidelines are inferior to the draft guidelines developed by consultants to the LCRP in the fall of 1978, find that the initial guidelines should be substitute in whole or in part for the present guidelines. These reviewers felt that the initial guidelines which were never formally released to the public, are superior to the present guidelines because they are more detailed. For example, they identify user groups, the relationship of user groups to major actions, major action impacts on the coastal zone, coastal program success indicators, and a process for determining if an activity is of state or local concern

OCZM does not agree that the initial guidelines should be used in the LCRP. While the issue to be addressed in this EIS process is, in part, the adequacy of the present guidelines, OCZM has been aware of the entire process of guidelines development in Louisiana. OCZM was directly involved in the development of the initial guidelines and has a detailed understanding of their content. The initial guidelines were overly lengthy, largely due to the inclusion of information superfluous for use in decisionmaking. For example, the identification of coastal user groups and major actions impacting the coastal zone are, for the most part, well known. Moreover, despite the length and complexity of the initial guidelines, they often did not provide clear policies and criteria for decisionmaking in a manner enabling the reader to understand the legal requirement of each guideline. With few exceptions; the key management concepts of the original guidelines have been included with greater clarity in the present guidelines.

Much of the information in the initial guidelines was of a useful nature. This information has been incorporated into other portions of the present program: The program success indicators are being used to develop the computerized change detection monitoring program to be used in the evaluation of the LCRP (see Chapter VII); and the process for determining if a use is of

state or local concern provided the basis for the procedural rules contained in Appendix cl.

Several commentators have suggested that the guidelines are inadequate in that they do not identify certain areas for preservation and other areas for development. These reviewers advocate the use of a system such as that in the New Jersey CZMP, which identifies specific areas where development is either encouraged, discouraged, or prohibited.

The New Jersey CZMP approach may be desirable for some States, especially those with readily identifiable and varied land and water forms. The CZMA, however, does not require that all States utilize such an approach. Individual parishes may identify specific areas suitable for preservation or development in their local coastal programs, if the other requirements of the LCRP are met.

Several reviewers believe that the guidelines need specific policy statements for each of the ten groups of guidelines. They feel decision makers will not have adequate guidance for determining the extent of resource development and protection that is required.

OCZM regulations do not require States to present the policies in coastal programs in a particular format. Rather, the policies must clearly describe what the State has decided to manage under its program and how it will be done. OCZM believes that the present guidelines are clear and specific and that a second level of summary policies would not increase comprehensibility.

Generic Response B: Guideline 1.8

Reviewers provided both editorial and substantive comments concerning guideline 1.8. Numerous reviewers indicated that guideline 1.8 was too complex and confusing, and requested that the guideline be adequately described or presented in a more understandable fashion such as in chart form. Another group of commentators indicated that provisions of the guideline left too much discretion to decision makers; a number of these reviewers offered specific alternative approaches designed to provide balance to the guidelines.

Both OCZM and CMS/DNR agree that guideline 1.8 is complex. The narrative section of Chapter II of the DEIS evidently failed to clearly describe how guideline 1.8 would be used in conjunction with the other guidelines, as well as how the specific conditions and criteria included within the guideline would be applied. The narrative discussion in Chapter II has therefore been expanded to address the major concerns raised in the comments received on the DEIS. OCZM believes that this discussion describes with sufficient clarity and detail how guideline 1.8 operates, including the specific process and criteria that must be met prior to allowing a use to proceed under guideline 1.8. With this additional material, OCZM believes that guideline 1.8 provides predictability in permit decisions consistent with the CZMA.

Several alternatives to guideline 1.8 were presented in the comments. Several commentators suggested that an alternative definition of guideline 1.8 developed by Mr. Michael Osborne, an attorney representing the Sierra Club and the National Wildlife Federation, be substituted for the LCRP guideline. This alternative is included verbatim in comment 42. Mr. Osborne's alternative parallels the LCRP guideline 1.8 in many respects. Its format and criteria are similar to those found in guideline 1.8. The alternative is different, however, in several important aspects. First, under the alternative, activities not in compliance with guideline standards modified by the phrase "maximum extent practicable" must meet all of the following four criteria in order to be in compliance with the guideline at issue:

- 1) public benefits resulting from the proposed use would clearly outweigh the adverse impacts resulting from non-compliance with the modified standard;
- 2) significant public benefits would result from the use;
- 3) the use is coastal water dependent; and,
- 4) there are no feasible and practical alternative locations methods, strategies and practices for the uses that are in compliance with the standard.

The second basic difference between guideline 1.8 and the proposed alternative is that the alternative does not require activities which meet the four criteria to be conditioned so that they are located and/or designed to minimize those adverse impacts listed in guideline 1.7 and the guideline(s) at issue. In other words, while the alternative guideline requires consideration of "feasible and practical" alternative locations, methods, strategies, and practices for the uses that are in compliance with the standard, it does not require a use which meets this and the other three criteria to be designed or located so that it maximizes conformance with the guidelines.

OCZM has examined this alternative proposal to determine if it would provide improved application of the guidelines. The alternative would not provide a reasonable balancing mechanism within the context of the other guidelines and the physical conditions of the Louisiana coastal zone.

OCZM does not find the four-part test proposed in the alternative to be an improvement over the current guideline. The requirement that the proposed use be "coastal water dependent", in particular, appears to be onerous when applied to the Louisiana coastal zone, a region so dominated by coastal wetlands that sites for many necessary facilities and uses are often not available in non-wetland areas. The application of the "coastal water dependent" requirement in conjunction with guideline 6.4 would, for example, preclude even minimal filling of wetlands, when such activity might well be the only alternative for needed public facilities such as roads or hospitals. The LCRP guideline 1.8 would allow for filling if there were no feasible and practical alternatives for the use, the benefits of the use clearly outweighed the adverse impacts and the use either provided significant public benefits or would serve important regional, state,

or national interests. While the water dependency of a use is a crucial issue that must be considered in the permit process, especially with regard to alternatives, OCZM does not believe that water dependency should be required in every application of the balancing test. For this reason alone, CCZM does not believe that the proposed alternative provides a reasonable basis for managing coastal resources.

While the alternative guideline is overly restrictive in the case described above, the alternative does not, in other instances, provide adequate protection of coastal resources. The guideline does not require that proposed activities which meet the four criteria be designed or located as to minimize the impacts of the project. While state programs are not required by the CZMA to include provisions for mitigation in the form of either restoration or compensation for projects that must be located in wetlands where there are no practicable alternatives (see Generic Response D), the impact of such projects must be minimized. OCZM therefore finds that the inclusion of just such a provision in the LCRP guideline 1.8 to be an essential and necessary element of the guidelines and the program. In summary, OCZM believes the LCRP guideline 1.8 to be superior to the proposed alternative.

Several commentators have suggested that the phrase "maximum extent practicable" be replaced with the phrase "the best available technology to avoid (adverse impacts)." After careful consideration, OCZM believes that such a substitution would be inappropriate if not unworkable.

The phrase "maximum extent practicable" is used in the guidelines to provide flexibility as to whether a use or activity is to be allowed and for determining the means that should be used to reduce the impact of a use. The use of the phrase "best available technology to avoid" in the former case would be inappropriate since the issue is whether the use should be allowed. In cases where the phrase "maximum extent practicable" is used in the guidelines to indicate how to avoid certain impacts, the present guideline 1.8 provides a more reasonable and balanced approach for the consideration of the full range of costs and benefits associated with various techniques to reduce the adverse impacts of proposed uses. It should also be noted that several guidelines require that "best practical techniques" be used to avoid or minimize certain impacts. The term "best practical techniques", when used in these instances, provides a reasonable additional standard for balancing the costs and benefits of resource protection and development.

Generic Response C: Exemptions

Several commentators have suggested that the scope of exemptions provided by Act 361 may be so broad that the LCRP cannot provide for the management of all uses having direct and significant impact on coastal waters as required by Section 305(b)(2) of the CZMA. In particular, reviewers suggested that residences and camps should not be exempted from coastal use permitting because the cumulative impacts of such development will adversely affect fish and wildlife

habitat. Section 213.15 (A) of Act 361 provides for the exemption from the coastal use permitting process of the construction of a residence or camp. In Appendix cl, Part II E, this exemption is limited to structures for non-commercial and non-profit purposes which are commonly referred to as "single family" and only to the construction of one such structure by or for the owner of the land for the owner's use and not for subdivision, tract development, speculative building or a recreational community development. The exemption only applies to certain aspects of the construction of a residence or camp and not to any bulkheading or dredging or filling activities, except for small amounts necessary for the structure itself, and the installation and maintenance of septic and sewage facilities. This exemption is based upon a legislative finding that single family residences and camps do not, on an individual basis, have direct and significant impacts on the coastal environment. This finding is consistent with the U.S. Army Corps of Engineers general permit for camps in wetland areas in Louisiana. The Corps has found that camps have minimal impact and are appropriate for a general permit. The LCRP procedural rules in Appendix cl were drafted to assure compatibility with the Corps' determination. The Corps' general permit does not apply to single family residences. Such full-time residences are, however, rarely built in wetland areas of coastal Louisiana.

It should be pointed out that the major cumulative impacts from camps and residences are not from the construction of the structure itself or the small amounts of fill that may be associated with it, but from the discharge of waste materials and sewage into coastal waters and wetlands. In the past, such discharges were uncontrolled by state or local governments. The Department of Health and Human Resources (DHHR) has recently adopted new regulations which require essentially self contained on-site sewage treatment facilities in wetland areas. Camps and residences will be required to get DHHR approval and, consequently, will be subject to a consistency decision Section 213.12 of Act 361. This will greatly reduce any possibility of adverse longterm cumulative impacts.

Therefore, OCZM does not believe that the exemption for camps and residences constitutes a gap in authority for the management of uses having a direct and significant impact on coastal waters. The limitations on the LCRP exemption and of DHHR's requirements significantly reduce any adverse impacts which may result from the exemption. OCZM has also considered the fact that similar exemptions have been included in other approved coastal programs. For example, in the New Jersey Coastal Program, residential construction of under 25 units is exempted from the principal coastal permitting law. Similarly, under the California Coastal Program, the construction of single family units may be exempted from permitting in designated areas of the coastal zone.

The impact of this exemption will be scrutinized by OCZM as part of its annual evaluation of LCRP program implementation under Section 312 of the CZMA (see Generic Response I). If the information gathered during the 312 evaluations indicates that there are significant cumulative impacts resulting from the construction of camps or residences, the legislature can be asked to alter the exemption. However, at the present time, OCZM believes the exemption is appropriate.

One reviewer requested modification of the definition of "fastlands" to exclude leveed wetlands. Such a modification would not satisfy the provisions of the CZMA and Act 361, which both require the LCRP to manage uses having direct and significant impact on coastal waters. In order to clarify the fastland exception, it is necessary to examine the relationship between guideline 1.8, the levee guidelines (guidelines 2.1 through 2.6), and the definitions of "development levees" and "hurricane or flood protection levees." "Hurricane or flood protection levees" are defined as those levees built for the purpose of preventing occasional storm surges but not for the purpose of drainage or developing any enclosed wetland areas. A decision to allow the construction of such a levee in wetland areas must be made in conformance with guidelines 1.8, 2.1, 2.2, 2.4, and 2.6. If such a decision is made, guideline 2.4 requires that the amount of wetlands enclosed by such levees be minimized by locating the levees landward of or at the wetland/ non wetland interface to the maximum extent practicable. If this is not found to be a viable option under the criteria in guideline 1.8, and wetland areas would be enclosed by the levee, such wetland would not, thereafter, be defined as fastland. This is because guideline 2.6 requires, without exception, that such levees be built, operated and maintained to maintain interchanges of water, beneficial nutrients and aquatic organisms between enclosed wetlands and those outside the levee. As a result, such enclosed wetland areas would not be defined as fastland and coastal use permits would be required for activities in wetlands behind such levees to the same extent as required elsewhere in the coastal zone.

"Development levees" are defined as those levees constructed to facilitate the drainage and development of enclosed areas including wetlands by controlling the water level within the enclosed area. The status of wetlands enclosed by development levees approved by the coastal use permit process is thus different from wetlands enclosed by hurricane or flood protection levees. If a decision is made to allow the construction of a development levee, then the basic decision has been reached to allow the enclosed wetland areas to be drained and filled and otherwise used for development purposes. The need for the use(s) proposed for areas enclosed by the levee as well as the levee itself, must, however, be considered as part of the decision making process utilizing guideline 1.8. and guidelines 2.1, 2.2 and 2.3. Hence, when the decision maker determines that a development levee may be constructed which would cut off the interchange of water and thereby convert enclosed wetlands into fastlands, full consideration must be given, at the time of the review of the permit for the levee, to the impacts of draining and filling these wetlands for development.

Whether or not wetlands enclosed by pre-existing validly constructed flood control or development levees, or natural formations, are defined as fastlands will be determined on a case-by-case basis. If such levees would normally prevent activities, not including the pumping of water for drainage purposes, within the surrounded area from having direct and significant impacts on coastal waters, the enclosed area would be considered fastlands. Such fastlands would not be subject to the permitting procedures of the LCRP, but would still be subject to any other federal, state or parish government authority. It should again be noted, however, that Section 213.15(A)(2) of Act 361 provides the Secretary with the ability to require a coastal use permit for activities occurring in fastland when he/she finds that such a use would have direct and significant impact on coastal waters.

OCZM has consequently concluded that the fastland exemption is consistent with the CZMA because it is reasonable to assume that uses on fastlands would not involve the flow of water, sediment and other material which could have a direct and significant impact on coastal waters. If they do, the Secretary can regulate the use under Act 361.

A number of other commentators also indicated that the process and considerations that the Administrator will use to determine whether a proposed use has a direct and significant impact on coastal waters, and hence will require a coastal use permit, needs to be more fully described. In response to these requests, such a procedure has been provided in Part VII of the Rules and Procedures for Coastal Use Permits in Appendix cl.

Generic Response D: Mitigation

Several reviewers have commented that the LCRP is deficient because it does not require "mitigation" on a case-by-case basis when wetlands are altered by a project. These reviewers define mitigation as compensation and replacement of lost wetlands, or restoration of altered wetlands or the dedication of similar wetlands for preservation. Although restoration and enhancement of the coastal zone are among the general management goals of the Coastal Zone Management Act (CZMA), mandatory project-by-project mitigation in the form of compensation or restoration is not a requirement for state program approval. OCZM regulations require the minimization of the adverse effects of development in wetlands, an approval requirement that the LCRP not only meets but surpasses through its regulatory and enhancement programs.

OCZM regulations do suggest mitigation, either on a case-by-case basis or in a general sense, as one possible tool for use in state management programs. The comment to 15 C.F.R. §923.3(b) states that the CZMA envisions continued growth and development in the coastal zone in a manner that "prevents or mitigates, to the extent possible damage to or loss of these resources." (emphasis added). There is, however, no requirement in the CZMA or its implementing regulations for the case-by-case mitigation approach sought by the commentators.

The manner in which a State must address impacts on wetlands and flood plains in its coastal management program is outlined in 15 C.F.R. §923.3 (b)(ii). The regulations direct States to adopt wetlands policies in accordance with the purposes of Presidential Executive Order 11990 (pertaining to protection of wetlands). The Executive Order does not require case-by-case mitigation in the form of compensation or restoration. OCZM regulations reflect the more generic approach to mitigation through good management. The regulations require only that a management program include policies that "minimize the destruction, loss or degradation of wetlands and preserve and enhance their natural values . . ." 15 C.F.R. §923.3(b)(ii). The LCRP meets this requirement through the content of the substantive guidelines, the decision making process of guidelines 1.7 and 1.8, and its positive enhancement programs.

The comment to 15 C.F.R. §923.2 (b)(ii) suggests, but does not require, three possible approaches which States may incorporate into their wetlands management programs if they wish to go beyond the basic requirement of minimizing adverse impacts. First, programs should determine the effect of a proposed development's location in a wetland. Second, programs should identify and evaluate practicable alternatives to the location of a proposed project. Finally, programs should mitigate the effect of locating a proposed project in wetlands if there is no practicable alternative.

Act 361 and the guidelines promulgated under it meet some of these voluntary standards in addition to meeting the basic requirement. Section 213.2 of Act 361 establishes a public policy balancing the effects of protection and development of coastal resources. Adverse impacts and alternative sites must be considered in guidelines 1.6, 1.7, and 1.8. Guideline 1.8 permits the use of mitigation as a method minimizing or offsetting adverse impacts. Other guidelines encourage the use of mitigation techniques in conjunction with coastal use permitting. For example, guideline 4.2 states "spoil shall be used beneficially to the maximum extent practicable to improve productivity or create new habitat, reduce or compensate for environmental damage done by dredging activities, or prevent environmental damage." Guideline 7.4 encourages projects which divert freshwater flow to offset salt water intrusion.

In addition to its regulatory program, the LCRP will also include positive enhancement programs such as the development of a freshwater diversion plan and the construction of diversion projects in critical areas. Some reviewers have criticized the enhancement proposals as being too little, too late. However, the positive programs envisioned in the LCRP represent a rational, long-range approach to the problem of wetlands loss (see Chapter VII for more detail on proposed 1st year Section 306 work tasks). The LCRP will contribute to efforts to study the effects and causes of wetlands loss, and will coordinate with federal agencies and the academic community in order to develop techniques best suited to minimize such losses. While these techniques are being developed, Louisiana will use the balanced approach of Act 361 to minimize the adverse impacts of individual projects.

Generic Response E: Inland Coastal Zone Boundary

Several commentators objected to the inland boundary of the coastal zone as defined by Act 361. Some reviewers stated that the inland boundary far exceeded the limits of the CZMA. The reviewers believe that the CZMA requires the inland extent of the coastal zone to be limited to a relatively narrow strip of lands and waters in proximity to the coastline. A second group of commentators argued that the inland boundary excludes two specific areas that should be included within the coastal zone.

The inland coastal zone boundary for the LCRP was established in accordance with the implementing regulations for the CZMA, 15 C.F.R. §§923.30-923.34. These regulations require that the inland coastal zone boundary include:

- those areas the management of which is necessary to control uses which have direct and significant impact on coastal waters;
- those special management areas identified in the program;
- those waters under saline influence;
- salt marshes and wetlands;
- beaches,
- transitional and intertidal areas; and
- islands.

The boundary must also be presented in a manner that is clear and exact enough to permit determination of whether an area or activity is located within it. Finally, the inland coastal zone boundary may be defined in terms of political jurisdictions, planning areas or a uniform setback line so long as it includes the areas identified above.

Several reviewers objected to the "excessive" inland extent of the coastal zone defined by Act 361. They interpret Sections 304(1) and (2) of the CZMA to mean that the overriding criteria for delineation of the inland boundary of state coastal zone programs is that these boundaries be "in proximity to" and "adjacent to" the "shorelines" of Coastal States. These reviewers also contend that the inland boundary of three geographical miles from the shoreline established by the Louisiana Coastal Management Act of 1977 (Act 705) is a boundary which is consistent with the CZMA.

OCZM considered this interpretation of Section 304 of the CZMA during the development of its program approval regulations and in its review of Act 705 in 1977. In both cases, OCZM determined that such interpretations of the CZMA are incorrect. The interpretations fail to consider the language in of Section 3Q4 of the CZMA which states that "islands, transitional and intertidal areas, salt marshes, wetlands and beaches," as well as "shorelands, the uses of which have direct and significant impact on coastal waters", must be included within the coastal zone.

The LCRP boundary defined by Act 361 meets the requirements of Section 304 of the CZMA and 15 C.F.R. §923.30-34. To include any smaller area and, in particular, an area as small as that which was encompassed by the 3 mile boundary of Act 705, would ignore the critical relationships between those wetlands areas and the estuaries included within the present boundary that make the Louisiana coastal zone such a valuable resource to both the State and the Nation.

Several different reviewers noted, on the other hand, that the inland extent of the coastal zone was insufficient in several areas. These reviewers believe that certain areas along the Calcasieu River north of the Gulf Intra-Coastal Waterway and along the Bayou Du Large and Bayou Grand Caillou south of Houma should be included within the boundary because they are "waters under saline influence" and/or "transitional and intertidal areas which are subject to coastal storm surge." Areas of this type are required to be included within the boundary by 15 C.F.R. §523.30.

OCZM has reviewed data used to determine the boundary in 1978 as well as more recent information regarding the physical characteristics of these areas to determine OCZM's review indicates that the areas in question are too far inland to be of a transitional or intertidal nature and to be subject to coastal storm surge. The area subject to the coastal storm surge

extends inland considerably less than the 100 year coastal flood plain.

OCZM has also examined salinity data to determine if the waterbodies in question are "under saline influence" and has concluded that they have been appropriately excluded from the coastal zone. OCZM has in the past used the presence of salinity concentrations of 5 parts per thousand (5 ppt) during normal conditions as the minimum salinity concentration necessary for waters to be under "saline influence". This interpretation is consistent with Section 304(2) of the CZMA, which requires that water with a "measurable quantity of sea water" be included within state coastal zone boundaries.

In Louisiana's coastal areas, salinity varies seasonally with tides, rainfall, river discharge, and evaporation rates. Distinct salt wedges are not a usual occurrence in coastal Louisiana and most channels are relatively homogeneous. Highest salinities in coastal Louisiana occur in the fall when rainfall and river discharges are lowest. The following salinity data is available for the areas in question:

- Calcasieu Area

According to Barrett (1971), from data recorded from December 1967 through April 1969, at Station 11, located near mile 35 at Lake Charles, had an average salinity of 1.6 ppt which was the lowest average of all stations recorded. However, the average salinity for Stations 11 and 10 (Station 10 being located in Prien Lake at mile 31) was 1.8 ppt for the sample period. At Station 12 which was located at West Pass on the northern end of Calcasieu Lake, the average salinity was 7.74 Opt. This station lies below the Intracoastal Canal and is, thus, within the coastal zone. Barrett's Figure 37, a salinity map of coastal Louisiana, shows that above the northern end of Calcasieu Lake salinity ranges are from 0 to 5 Opt while below this line they are over 5 ppt.

According to USGS Water Resources Data, 1977, which used a record period of October 1967 through September 1977, the mean salinity at a station located at river mile 40 at Lake Charles was 2.01 ppt. At the station at Calcasieu Lock on the Intracoastal Waterway, the mean salinity for a sample day per month over the year was 3.87 ppt.

According to Gagliano and Van Beek (1970), salinity at the station on the Calcasieu River near Lake Charles, from 1958 through 1961 was less than 5 ppt in 75 percent to 90 percent of the samples and at the Gulf Intracoastal Waterway east of Calcasieu Lock - over 75 percent of the samples had salinities less than 5 ppt from 1954 to 1961.

According to unpublished data, per a telephone conversation with Barney Barrett, samples taken at Turner's Bay, which is one mile south of the Intracoastal Canal on Lake Calcasieu, reflect a mean salinity of 5.11 ppt for the year 1979.

The staff of the Coastal Management Section has also planimeted data shown on plate 4B, "Chenier Plain Wetland Habitat" map (Gosselink and Cordes, 1979), an Ecological Characterization Study of the Chenier Plain Coastal Ecosystem of Louisiana and Texas, done for the U.S. Environmental Protection Agency and the U.S. Fish and Wildlife-Service, Department of the Interior. The planimetry indicated that there are 1.89 square miles of brackish marsh above the Gulf Intracoastal Waterway in the Calcasieu River Area and 15.63 miles of intermediate marsh.

- Bayou Grand Caillou and Bayou DuLarge

According to Gagliano and Van Beek (1970) from a station on Bayou Grand Caillou near Dulac from 1948 to 1968, fewer than 10 percent of the samples had salinities over 5 ppt. Another station in Houma Navigation Canal, which is between Bayou Grand Caillou and Bayou DuLarge, near Crozier, Louisiana, showed that fewer than 5 percent of the samples from 1962 to 1968 exceeded 5 ppt.

In the Barrett Study (1971) a station at Lake Boudreaux between Bayou Grand Caillou and Petit Caillou showed a mean salinity from 1967 to 1969 of 3.2 ppt.

According to USGS, Water Resources Data for Louisiana 1977, a station located in Bayou Grand Caillou near Dulac showed a mean salinity for a sample day per month over the year of 1.79 ppt and at a station on the Houma Navigation Canal, the mean salinity for a sample day per month over the year was 0.13 ppt.

At the time the legislature was considering the boundary, the staff of CMS primarily relied on Barrett (1971) for salinity data. The other data was not looked at for these purposes until the issue was raised by reviewers of the DEIS. The data indicates that, while there are times when the salinities of the areas in question do exceed 5 Opt, it is unclear as to whether these higher salinities are a normal occurrence or simply seasonal or abnormal fluctuations. In light of the lack of clear data which would indicate that the areas in question contain water with salinity of 5 Opt or greater under normal conditions, OCZM believes that it is not inappropriate to exclude these areas from the coastal zone, and that the State has proposed a coastal zone boundary that meets the requirements of Section 304 of the CZMA.

Generic Response F: Cumulative Impacts

Several reviewers, noting that the cumulative effects of many small projects in a confined area can have significant impact on coastal resources, expressed concern that the program failed to contain specific standards and criteria for measuring and analyzing such impacts. Several commentators also noted the need for the monitoring of cumulative impacts. Other reviewers indicated that specific standards and criteria are needed to provide consistent guidance to parishes, which will eventually be permitting uses of local concern under approved local coastal programs.

Section 213.8(c)(9) of Act 361 requires that the guidelines "minimize detrimental effects of possible cumulative impacts on coastal resources from proposed or authorized uses." In response to this mandate, guideline 1.6(o) requires that permitting authorities consider the likelihood and extent of cumulative impact. Guideline 1.7(j) similarly identifies significant adverse cumulative effects as a type of impact to be avoided to the maximum extent practicable.

During the initial stage of implementation of the coastal use permit program, CMS/DNR will work closely with the U.S. Army Corps of Engineers (Corps) concerning permit coordination matters. This coordination will include sharing of information concerning cumulative impacts, and in particular information concerning the number, magnitude, and impacts associated with Section 10/404 permits previously granted by the Corps for areas within which a proposed use requiring both a Corps and coastal use permit are required. OCZM believes that until DNR has gained enough experience with implementing the coastal use permit program, such procedures will be sufficient.

In light of the large number of coastal use permits that will be reviewed by DNR each year, and the need to provide guidance to parish programs, both OCZM and DNR feel that, in the long run, it would be desirable for the program to develop more detailed criteria, procedures, and monitoring capability to address the cumulative impact issue. The LCRP is thus proposing two program activities to be undertaken during the first year following program approval.

The first activity involves LCRP coordination with a proposed study concerning cumulative impacts by the Corps, New Orleans District. Initially, this study will assess the feasibility of using advanced computer techniques to model the cumulative impact of Corps permitted activities in coastal Louisiana, including the potential for computer mapping of permitted activities, habitats and other data and development of a predictive model which will initially focus on such canal features as bank erosion. This study should result in the development of information needed for the development of criteria and procedures which can be used in a coordinated fashion by both the Corps and DNR to more specifically address the cumulative impact issue.

The CMS/DNR, assisted by the Louisiana State University Center for Remote Sensing, will also develop a computerized means of detecting change in selected environmental indicators. This project, based on previous Section 305 grant work products, is intended to provide the State with the means to monitor overt changes in the coastal resources, thus providing a method of assessing cumulative impacts. It will also measure the extent to which the program is meeting the objectives identified in Chapter VII. This monitoring system will include indices such as shoreline measurement and general land loss or gain, barrier island changes, salt water intrusion and various water quality measures. More information on this project is found in Chapter VII.

Generic Response G: Program Coordination

A number of reviewers pointed out that the DEIS did not contain detailed information on how the LCRP will coordinate with other state and federal agencies. The revised document contains copies of memoranda of understanding (MOU's)

between CMS/DNR and other state agencies in Appendix n. Additional information has been provided in Chapter IV as well .

Questions have been raised about the legal status and enforceability of interagency MOU's under Louisiana law. State agencies are required by Section 213.13 of Act 361 to coordinate their activities with the LCRP and to be consistent to the maximum extent practicable with the program. Consequently, state agencies have a duty independent of any MOU to conform with the policies of the LCRP. This duty to conform will be implemented through interagency MOU's authorized by Section 213.14 until a "one-window" permit system is eventually established through binding interagency agreements under Sections 213.11 and 213.14.

Enforcement of these MOU's is authorized under Section 213.17. The Secretary of DNR and local governments with approved programs have the authority under that section to bring actions against agencies in violation of Act 361 or regulations promulgated under the Act. OCZM will also monitor the effectiveness of procedures for interagency coordination during its annual Section 312 evaluation of the LCRP. (See Generic Response I.)

Conflicts between state agencies and CMS/DNR will be resolved through the conflict resolution procedures contained in the applicable MOU, which lead to the procedure outlined by Section 213.13(D) of Act 361. The Act establishes a procedure whereby the Secretaries of DOTD, DNR, D14F and other affected agencies will coordinate their actions to assure consistency with the LCRP. Conflict resolution with federal agencies on issues of consistency will follow the procedures established by federal consistency regulations. See Chapter V for a detailed discussion of the consistency process.

A number of commentators requested more information about the "in-lieu" permit issued by the Office of Conservation in the Department of Natural Resources (OC/DNR). The MOU establishing a joint review of certain activities through the in-lieu process is included in Appendix n. (See also the text of the revised document on page 97).

The MOU establishes a procedure whereby OC/DNR and CMS/DNR will both issue permits for oil and gas activities. On-site activities for which OC/DNR issued permits as of January 1, 1979, will be subject to an "in-lieu" permit which will be issued by OC/DNR after review by CMS/DNR. CMS/DNR will issue coastal use permits for certain ancillary activities associated with oil and gas production, such as access to well sites, dredging and filling.

CMS/DNR will review applications for in-lieu permits in order to make a determination as to whether the proposed activity is consistent with the LCRP, and will notify OC/DNR of its determination. If there is a conflict over a permit decision, the Administrator of CMS/DNR and the Commissioner of Conservation will meet to resolve the conflict. If they cannot resolve the conflict, they will notify the Secretary of DNR and the conflict resolution procedure outlined in Section 213.13(D) of Act 361 will be followed. Enforcement of this MOU, as with all other state MOU's, is authorized by Section 213.17.

Some reviewers have raised questions about CMS/DNR's statutory authority to review individual permits under the "in-lieu" system. The authority for establishment of the in-lieu permit process is found in Sections 213.11--213.14 of Act 361. Section 213.12(B) states that OC/DNR shall coordinate in-lieu permitting activities pursuant to Section 213.13(B) and (D). These sections require state agencies to coordinate their activities in the coastal zone with the LCRP, and to ensure that their activities are consistent with the LCRP. Section 213.13(D) states "when the Secretary finds" that governmental activities are inconsistent with the LCRP, he or she shall initiate the conflict resolution procedure. In order to make a finding, the Secretary must review the activities of other governmental agencies not requiring coastal use permits. Effective implementation of Section 213.13 has been construed to require review of individual permits.

Generic Response H: Inadequacies of the DEIS

Some commentators felt that the DEIS was deficient with respect to: 1) the alternatives analysis; 2) description and quantification of socio-economic impacts; and 3) whether the assessment could substantiate that there would be a net positive impact from program approval.

Alternatives

Throughout the development of the LCRP a variety of alternatives to specific elements of the program were considered. Many of these derived from comments received from involved local and state agencies, federal agencies, and other interest groups. In addition, the Louisiana Legislature looked at numerous alternatives to specific features contained in various coastal bills. The consideration of alternative boundaries, management techniques, policies and guidelines took place over three to four years. The record of this process of reviewing substantive alternatives which were considered consists of thousands of pages. Any attempt in this environmental impact statement to consider all policy and programmatic alternatives would only repeat the detailed public record and cause unnecessary bulk and delays in the EIS process, a process that the new Council on Environmental Quality (CEQ) Regulations on implementation of the National Environmental Policy Act (NEPA) attempt to avoid. However, a summary of these materials has been included in the description of the program. OCZM believes that the review of alternatives during program development meet the applicable requirements of NEPA and that NEPA standards have been built into OCZM's requirements for program development.

Normally, at the time a program is submitted for approval, most of the substantive decisions regarding policies, how the program is to be implemented, etc., will have been made by state executive or legislative branches of government. That is not to say that changes can no longer be made. In many instances in other states, changes have been made after state program approval. As a result of what is now termed the scoping process under CEQ's regulations implementing NEPA, OCZM has tried to identify the major issues discussed during the Louisiana public review process. OCZM's alternatives to approval are to delay or deny approval for a number of reasons. These reasons are limited to those identified in the review

process and those that OCZM feels are potentially valid reasons according to OCZM regulations.

Additional valid alternatives are those which can be carried out by the State. They are to modify parts of the program or withdraw their application for federal approval. While these were not specifically elaborated on in the DEIS because the consequences coincide with those of the federal alternatives, they remain throughout the process as valid alternatives.

With respect to the "no action" alternative, OCZM has generally considered that federal denial or state withdrawal of the program, and "no action" are synonymous. State participation under the CZMA is voluntary and when a State participates in program development, it decides whether or not program approval and implementation is in its best interests. A few States have chosen the alternative of non-participation. This alternative may be chosen by a State at any time. Some States have decided not to participate during the legislative hearings on various coastal bills. The Louisiana Legislature decided against the "no action" alternative when it passed Act 361.

The impacts of the "no action" alternative were described in the DEIS in Part III, Alternatives to the Proposed Action, under the Loss of Federal Funds to Administer the Program" and "the Loss of Consistency of Federal Actions with the LCRP and its Policies." OCZM believes that these descriptions are sufficient for an understanding of the impacts associated with this particular alternative.

Quantification of Socio-Economic Impacts

The DEIS discussed in general terms on pages 164 through 170 the social and economic impacts associated with the LCRP. While this discussion is general in nature due to the programmatic nature of the proposed federal action, OCZM feels that the discussion sufficiently describes information necessary to make a reasoned choice among alternatives. Additional information, however, has been added to Part V Environmental Consequences which describes the general impacts of coastal zone management on development interests, property and land values.

NEPA regulations (40 C.F.R. §1502.23) do not require a monetary cost-benefit analysis for all proposed actions. Implementation of a large-scale, comprehensive resource management program does not lend itself to quantification in a dollars and cents analysis. The LCRP proposes to set up a permit system which will manage certain future land and water resource uses by state and local government agencies. The permit system is reactive (i.e., it takes effect only when an applicant applies for a permit). The cumulative impacts of such a program can be predicted with only a limited degree of certainty.

It is difficult to analyze such a program in light of the need to compare the federal investment of annual Section 306 grants-in-aid to unquantifiable short and long-term benefits to environmental values as the management system attempts to achieve the goals, objectives and policies as expressed in the LCRP. This difficulty was similarly realized when

the Office of the Legislative Analyst of the State of California spent \$200,000 in producing a report entitled, Review of the California Coastal Plan, which they were required to undertake by the state Legislature. The report looked at both the direct fiscal impacts of the California Coastal Plan on the state budget (e.g., cost of administering the permit process and additional coastal planning), and at the expected impact on residential and commercial development. The report's conclusions were expressed in general terms. The inability to produce specific dollar estimates resulted from the fact that the benefits of coastal management, which the report called "significant", could not be responsibly or meaningfully quantified.

Experience in a number of States has shown us that there will be increased costs of doing business for a number of permit applicants because of certain constraints or conditions which may be applied to the permits. Due to such variations in siting and timing, and in the characteristics and scope of potential activities requiring a permit, this type of analysis can be made after the fact but seldom before.

While a purpose of an environmental impact statement is to alert decision makers as to the consequences of their proposed actions on the environment, OCZM has sought to ensure that the statement is a full disclosure document which adequately informs the public. We feel that part of this obligation to inform the Louisiana public has also been met through the public participation requirements of program development and the extensive debates over the various provisions of Act 361. Once again, this cannot be duplicated in an EIS but instead is included as part of the overall program development and approval process.

Net Positive Environmental Impact

On page 161 of the DEIS, OCZM stated that approval of the program will result in a net positive environmental effect. Because of the scope of the state program and the indeterminant time involved with its implementation, it is impossible to make a standard objective cost/benefit ratio study to determine the incremental effect of the proposed program (see previous response to quantification of impacts). However, based on several studies and years of experience evidenced by the implementation of approved coastal zone management programs by numerous states, it is fair to state that the programs have changed state decision-making positively with respect to land and water uses.

These programs have established formal state and local government planning and permitting mechanisms which provide a forum for public input, resolution of conflicting uses and comprehensive decision-making. Unregulated development historically has had negative impacts on coastal areas and resources; these impacts can be mitigated or reduced through state management, including enhancement activities such as those in the LCRP. Various federal agency actions can be coordinated through a state's implementation of federal consistency. Approval of the LCRP will result in this type of positive change.

Both the U.S. Congress and OCZM have been interested in determining the effects and net results of the national coastal zone management program. In March 1979, OCZM produced a report entitled, The First Five Years of Coastal Zone Management - An Initial Assessment which attempted to determine what \$64.5 million in grants-in-aid to coastal States has accomplished. Although this 60 page document is too lengthy to attach to the DEIS it does support the conclusion that the implementation of a federally approved coastal zone management program will produce net benefits to the environment. Based upon this study and others which have been conducted on the coastal zone management program, OCZM feels that it is justifiable to conclude that approval of the LCRP will result in net positive environmental impact.

Generic Response I: Annual Program Evaluations

Many commentators indicated a need for periodic evaluations of the effectiveness of the LCRP.

Section 312 of the Coastal Zone Management Act (CZMA) provides for a "continuing review of the management programs of the coastal states and the performance of such states with respect to coastal management." As a part of the ongoing monitoring of the LCRP, yearly evaluations incorporating a review of all relevant available data, a site visit and a team assessment of all available information will assess the extent to and manner in which the LCRP is being adhered. This assessment will determine the following:

(1) Whether there are any unjustified deviations from the approved LCRP that warrant initiation of termination or suspension proceedings;

(2) The extent to which the implementation of the LCRP is achieving the following national purposes of the CZMA:

(a) Protection of significant natural resources and areas such as wetlands, fisheries habitats, beaches, dunes and barrier islands;

(b) Management of coastal development so as to minimize loss of life and property due to inappropriate development in area subject to coastal hazards; to give priority to coastal dependent development including energy facilities; and to identify environmentally suitable sites for dredge spoil disposal;

(c) Increased access to the coast for recreation purposes, including revitalization of urban waterfronts, and protection and restoration of cultural, historic and aesthetic resources in the coastal zone; and

(d) Improved predictability and efficiency in public decision making, including increased governmental coordination and cooperation, and improved permitting procedures;

(3) Whether there are areas where the program is weak or not meeting its terms as fully as possible, or where the program could be further enhanced and made more effective by new or refocused program activities; and

(4) What changes have occurred in the LCRP during the period covered by the evaluation, and whether these constitute amendments or routine program implementation.

OCZM will conduct an evaluation of the LCRP approximately seven months after the award of the first Section 306 grant. This evaluation will be led by members of OCZM's Policy and Program Evaluation staff and will include Coastal Zone Management Program Office staff and other OCZM staff as needed. Federal, state, and local officials as well as the public will be asked to comment on the LCRP in terms of its performance in meeting the goals indicated above. During the 312 evaluation one or more public meetings will usually be held to gather information from the public.

After the site visit, findings will be prepared by the Assistant Administrator for Coastal Zone Management. This will occur during each grant period of program implementation. The findings will be used by OCZM to:

- (1) Determine funding levels for future Section 306 grants;
- (2) Assess the quality and appropriateness of subsequent grant work program activities in light of recommendations made in the evaluation findings; and
- (3) Determine whether and what sort of substantive grant conditions may be appropriate.

If there are serious deviations, the findings will provide the basis for suspending or terminating the existing grant or withholding future funding.

INDIVIDUAL REVIEWERS

Federal Agencies

- 1) Advisory Council on Historic Preservation (Wall - 11/27/79)
- 2) Army Corps of Engineers (Boone - 11/7/79)
- 3) Department of Agriculture, Soil Conservation Service (Berg - 11/7/79)
- 4) Department of Agriculture, Soil Conservation Service (Mangum - 10/9/79)
- 5) Department of Defense (Fliakas - 11/21/79)
- 6) Department of Energy (Langenkamp - 11/16/79)

- 7) Environmental Protection Agency (Harrison - 10/27/79)
- 8) Federal Energy Regulatory Commission (Shuster - 11/13/79)
- 9) General Services Administration (Penland - 10/11/79)
- 10) Department of Housing and Urban Development (Embry - 11/23/79)
- 11) Department of Interior (Ross - 11/28/79)
- 12) Department of Transportation (Simpson - 11/28/79)

State and Local Government Agencies

- 13) Louisiana Department of Natural Resources, Office of Forestry (Robinson - 11/6/79)
- 14) Louisiana Department of Transportation and Development (Perrin - 10/25/79)
- 15) South Central Planning and Development Commission (Fingerman - 11/7/79)
- 16) St. Bernard Parish Planning Commission (10/30/79)
- 17) Vermilion Parish Police Jury (Morvant - 10/29/79)
- 18) City of New Orleans, Office of the Mayor (Mortal - 10/29/79)
- 19) Lafourche - Terrebonne Soil and Water Conservation District (Harang - 10/29/79)
- 20) Terrebonne Parish Police Jury (Landry - 11/9/79)

Organizations

- 21) Amerada Hess Corporation (Baker - 11/9/79)
- 22) Amoco Production Company (Adams - 11/9/79)
- 23) Atlantic Richfield Company (Livaudais - 11/27/79)
- 24) The Chamber of Commerce - New Orleans and the River Region (LeBlanc - 10/10/79)
- 25) Chevron U.S.A., Inc. (McGannon - 11/13/79)
- 26) Cities Service Company (Fritschen - 11/8/79)
- 27) Citizens for Safe Energy (Duncan - 10/30/79)

- 28) Conoco, Inc. (Ellis - 11/8/79)
- 29) Ecology Center of Louisiana, Inc. (Morein - 10/30/79)
- 30) Ecology Center of Louisiana, Inc. (Morein - 11/12/79)
- 31) Environmental Defense Fund (Tripp - 12/13/79)
- 32) Exxon Company, U.S.A. (Garner - 11/7/79)
- 33) Fund for Animals (Rosenthal - 10/30/79) *
- 34) Getty Oil Company - New Orleans, La. (Pierce - 11/6/79)
- 35) Houma - Terrebonne Chamber of Commerce (Lathrop - 11/16/79)
- 36) League of Women Voters (Herr - 10/30/79)*
- 37) The Louisiana Forestry Association (Hughes - 11/8/79)
- 38) Louisiana Oyster Dealers & Growers Association (Pausina - 11/3/79)
- 39) The Louisiana Wildlife Federation, Inc. (Veillon - 10/30/79)
- 40) Mid-Continent Oil and Gas Association (Lyons - 10/30/79)*
- 41) Mid-Continent Oil and Gas Association (Lyons - 11/21/79)
- 42) Smith & Osborne, Attorneys at Law, representing the National Wildlife Federation and Delta Chapter Sierra Club (Osborne - 11/10/79)
- 43) New Orleans East, Inc. (Higgs - 11/7/79)
- 44) Orleans Audubon Society (Morillo - 10/30/79)
- 45) Outboard Marine Corporation (Doyle - 10/1/79)
- 46) Phillips Petroleum Company (Copeland - 11/8/79)
- 47) RESTORE (Tritco - 11/9/79)
- 48) RESTORE (Tull - 11/9/79)
- 49) RESTORE (Hamann - 11/9/79)
- 50) Russell Sage Foundation - Milling, Benson, Woodward, Hillyer, Pierson & Miller, Attorneys at Law (Benson - 11/1/79)

- 51) Shellfish Institute of America (Pausina - 12/4/79)
- 52) Sierra Club, Delta Chapter, New Orleans Group (Halle - 10/30/79)
- 53) Sunoco Production Company (Ruder - 11/5/79)
- 54) Tennessee Gas Pipeline Company (Simpson - 11/8/79)
- 55) Texaco, Inc. (Liles - 11/26/79)
- 56) Texas Eastern Transmission Corporation (Young - 11/5/79)
- 57) Texas Pacific Oil Company, Inc. (Kendall - 11/9/79)
- 58) Transco Energy Company (Cofield - 11/7/79)
- 59) Williams, Inc. (Marsak - 11/7/79)

Individuals

- 60) Reverend Amory Alexander (10/30/79)*
- 61) Charles Gary Blaize (10/31/79)**
- 62) Charles 3roussard (11/1/79)***
- 63) Michael J. Caire, M.D. (11/5/79)
- 64) Francis Anthony Coco (11/1/79)***
- 65) John Davis (10/31/79)**
- 66) Christine Duncan (10/30/79)*
- 67) Sparrow Dwyer (11/6/79)
- 68) Dennis Fonmento (10/30/79)*
- 69) Charlotte Fremaux (10/31/79)**
- 70) Michael Halle (11/9/79)
- 71) Earl J. Higgins (11/8/79)
- 72) Wendy King (11/7/79)
- 73) John T. LaGrone (undated)

- 74) Philip H. McCrory, Jr. (10/30/79)
 - 75) Jim Nanninga (11/5/79)
 - 76) Joan Phillips (10/30/79)
 - 77) Anna K. Pleasonton, Ph.D. (11/9/79)
 - 78) Floris M. Relfe (11/12/79)
 - 79) Laurence P. Rozas (10/31/79)
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* Oral comments received at the DEIS public hearing in New Orleans on October 30, 1979.

** Oral comments received at the DEIS public hearing in Houma on October 31, 1979.

*** Oral comments received at the DEIS public hearing in Abbeville on November 1, 1979.

SPECIFIC COMMENTS AND RESPONSES

1) Advisory Council on Historic Preservation (Wall - 11/27/79)

Comment

The program does not demonstrate an understanding of what is required by the National Historic Preservation Act of 1966 and Executive Order 11593.

Response

The LCRP has signed a memorandum of understanding with the Louisiana Department of Culture, Recreation and Tourism which addresses the National Historic Preservation Act of 1966 and Executive Order 11593. See revised text in Chapter IV and MOU reproduced in Appendix n.

2) Army Corps of Engineers (Boone - 1-1/7/79)

a) Comment

The opportunity for joint processing of permit applications parallels our own regulations (33 C.F.R. §320.4(j)(7)). We strongly endorse and encourage such action.

Response

No response necessary. Thank you for your comment.

b) Comment

The discussion of federal consistency on page 135 should state that for unlisted activities, the State must inform the federal agency and applicant within 30 days from notice of license or permit application that such unlisted activity will affect the coastal zone and requires state agency review and that otherwise, the State waives its rights to review the unlisted activity.

Response

The document has been revised to reflect this comment; see the discussion Federal Licenses and Permits under B) Federal Consistency, Chapter VI.

c) Comment

The DEIS gives no clear indication as to the base condition to which the proposed LCRP has been compared to assess impacts. In the interest of providing a better understanding of the program impacts, it is suggested that the FEIS include at least a general discussion of the "most probable future" in the absence of the proposed program.

Response

Since this is not a site specific project, it is impossible to describe in-depth the base condition of the coastal environment of Louisiana, including the institutional setting. The State has made some attempts to accomplish this; however, throughout five years of program development.

This is reflected by the extensive work products identified in Appendix i. Part II, Chapter I - Overview, was intended to provide some of this baseline information; not from a scientific quantitative perspective, but as a general overview for a diverse audience.

An additional alternative of no action has been added to the FEIS which attempts to provide at least a general discussion of the probable future in the absence of the federal action to approve the proposed program.

d) Comment

The assertion in the DEIS Summary that Act 361 and the LCRP provide for streamlining federal permit programs, and the resolution of all interface problems between the coastal regulatory system and the Section 10/404 permit processes of the U.S. Army Corps of Engineers, is not fully supported by the factual discussions in the document.

Response

The text of Chapter IV has been clarified to outline these procedures. A draft MOU with the Corps is included as Appendix o. The MOU will be finalized during the first year of program implementation. OCZM regulations do not require finalization of such procedures prior to program approval.

3) Department of Agriculture, Soil Conservation Service (Berg - 11/7/797)

a) Comment

The LCRP does not address the issue of preserving the agricultural lands which comprise a large economic asset for the State. We recommend that the program give consideration to possible actions to alleviate the loss of these important agricultural lands.

Response

The Louisiana CZM program is a coastal wetlands and coastal water management program. It is not a generalized land use regulatory program. Moreover, agricultural activities are excluded from the LCRP permit system by legislation. However, the LCRP does recognize agricultural lands as a renewable resource. When such lands fall within the area subject to permitting, they will be considered as a resource in decision making.

b) Comment

The Louisiana Coastal Vegetation Map on page 24 was confusing in that it mixes geology and land cover. A general soil map, in addition to the vegetation map, would be helpful in depicting and understanding the resources of the coastal zone.

Response

The Louisiana Coastal Vegetation Map on page 24 (DEIS) was included to show what major geologic and other land/water types were included within the boundary. A soil map would not be appropriate at the scale allowed in this document.

c) Comment

The discussion of subsidence on page 38 is misleading because it incorrectly implies that all lands are susceptible to subsidence when drained. Studies by the USDA Soil Conservation Service and Earle (1975) provide information on this phenomenon.

Response

The discussion on subsidence applies only to wetlands. This brief discussion has been substantiated by Earle (1975). It was found that all wetland soils are susceptible to some degree of shrinkage and subsidence.

d) Comment

Guideline 9.3 concerning erosion control through the use of best practical techniques is too general. It should refer to specific techniques and specifications set out in the technical guides adopted by local soil and water conservation districts.

Response

Those technical guides available, such as those adopted by local soil and water conservation districts, will be used in minimizing run off and erosion from agricultural lands.

e) Comment

We recommend that agriculture be added to the list of uses identified in guideline 6.1 which are "necessary to provide adequate economic growth and development."

Response

It is not necessary to make the suggested change to guideline 6.1 because agricultural uses will be considered in permit decisions through guideline 1.6(9) and (k) and guideline 1.8.

f) Comment

We recommend that prime agricultural land be added to the list in Table VI-2 which identifies "Resources in Which There is a National Interest"

Response

Federal regulations (15 C.F.R. §923.52) do not require the State to consider the national interest in specific resources. The regulations only suggest that the State may want to choose those important resources for which they want to include "special consideration" in their permit procedures. Table VI-2 contains those resources which Louisiana has chosen. Agricultural land will, however, be considered in the permitting process through guidelines 1.6 and 1.8.

4) Department of Agriculture, Soil Conservation Service (Mangum - 10/9/79)

a) Comment

The description of the natural environment in Chapter I should include a description of the amount of agricultural land that is classified as prime farmland. An estimate of the acreage of prime farmland within the coastal

zone was provided to the Office of State Planning, June 1976. The National Cooperative Soil Survey is the basis for determination of prime farmland.

Response

See revised text in Chapter I. Prime farmland is discussed under the Agriculture subheading under c) Renewable Resources.

b) Comment

The following should be added to the list of adverse impacts in guideline 1.7 that are to be avoided: "Conversion of important farmland and forestlands to other uses that precludes continued production of agricultural and timber products."

Response

See response to comment 3(e).

c) Comment

Guideline 6.1, should be revised to indicate that agriculture is also a very important use that is necessary to provide adequate economic growth and development. This guideline as written encourages development on good agricultural lands, which is not consistent with the declared state policy of Act 361 concerning the minimization of the adverse effects of one resource use upon another.

Response

See response to comment 3(e).

d) Comment

The retention of important agricultural lands for production, is a very important national interest item that must be included in Chapter VI, Table VI-2 of the EIS. The U.S. Department of Agriculture advocates and is concerned with the need to retain important farmlands, forest lands, and rangelands.

Response

See response to comment 3(f).

e) Comment

The DEIS recognizes Section 213.15 of Act 361 which clearly exempts agricultural and forestry activities on land consistently used in the past for such activities. We believe that the LCRP should insure the maintenance of the productivity of agricultural lands and allow landowners to make the management decisions necessary to increase productivity. Activities that must be allowed for continued production include maintenance and improvement of farm drainage systems, maintenance of on-farm levees, and land grading.

Response

See response to comment 19(4).

f) Comment

The Soil Conservation Service recognizes the federal consistency provisions discussed in Chapter VI. SCS technical assistance programs to landowners will be consistent with the LCRP.

Response

No response necessary. Thank you for your comment.

5) Department of Defense (Fliakas - 11f21/79)

Comment

The total acreage of lands owned by the U.S. Navy which is affected by the LCRP listed on page 75 should read as follows:

Naval Air Station, New Orleans 4921 acres

Naval Support Activity, New Orleans 430 acres

Navy/Marine Corps Reserve Center, New Orleans 13 acres

In agreement with the above addition, the acreage of Navy-owned lands stated on page 76 should be corrected to read 5364 acres.

Response

The figures in Chapter III have been changed accordingly.

6) Department of Energy (Langenkamp - 11/16/79)

a) Comment

We concur with the proposed federal approval of the Louisiana Coastal Resource Program. The Louisiana Program clearly recognizes the national interest in energy resources and facilities and the regulation of energy resources and facility development is recognized as a matter of state rather than local concern. Overall, this program certainly warrants commendation for the attention to avoidance of overlapping permit requirements and consolidation of application procedures.

Response

No response necessary. Thank you for your comment.

b) Comment

Outer Continental Shelf activities adjacent to the coastal zone should be reviewed for federal consistency under the provisions of Section 307(c)(3)(3) of the CZMA rather than the provisions of Section 307(c)(1) and (2) as indicated on page 134 of the DEIS.

Response

The discussion on page 134 of the DEIS pertains to the general principle that federal activities in or directly affecting the coastal zone must be conducted in a manner which is consistent, to the maximum extent practicable, with approved state programs. This principle is established in Section 307(c)(1).

The specific procedures for reviewing federal activities for consistency are then discussed at pages 135-138. It is noted on page 137 that OCS activities will be reviewed under Section 307(c)(3)(B).

7) Environmental Protection Agency (Harrison - 10/27/79)

a) Comment

The Summary Section C, "Areas of Controversy" (page 3, paragraph 4), should state that the effect of approval of the coastal zone management plan does not in itself result in delegation of Section 404 (Clean Water Act) authority to the State. Such a clarification would prevent confusion of the sort resulting from previously approved coastal zone management programs.

Response

Clearly approval of the LCRP does not result in delegation of authority under Section 404 of the Clean Water Act. The provisions of the Clean Water Act govern the delegation of Section 404 authority to the State. See also text of revised Summary.

b) Comment

The possibility of coordinating the issuance of National Pollutant Discharge Elimination System permits (Section 402 of the Clean Water Act) with coastal use permits deserves consideration. Since the requirements of the Clean Water Act must be incorporated into coastal programs, the granting of an NPDES permit could be made an integral first step in securing approval to locate an activity in the coastal zone. If an NPDES permit is denied or conditioned, this decision should be respected by the state coastal agency in its licensing of that activity.

Response

The Clean Water Act is administered by the Office of Environmental Affairs (OEA) of the Louisiana Department of Natural Resources. All coastal use permits issued will be subject to the condition that the applicant obtain and comply with all other required permits and approvals. Guideline 1.2 specifies that compliance with applicable air and water pollution standards is required. Thus, while it is preferable that an applicant obtain his NPDES permit prior to obtaining a coastal use permit or at least that processing proceed concurrently, timing is not critical. Moreover, the Coastal Management Section of DNR (CMS/DNR) and OEA will coordinate their respective permitting activities, thereby assuring consideration and coordination of the NPDES permit and permit process. However, CMS/DNR will work with EPA to coordinate permit procedures as much as possible.

c) Comment

The section "Methods of Program Implementation - Air and Water Quality Permits" in Chapter IV, should, in addition to incorporating by reference the requirements of the Clear Air Act, define the status of the various air quality control regions within the coastal zone with respect to National Ambient Air Quality Standards. Further, discussion should include the coastal decision-making process. In addition, guideline 1.6 should include this subsection: "t) extent of impact on the air quality of the region." Similarly, guideline 1.7 should include: "v) degradation of air quality below minimum standards."

Response

The Clean Air Act is currently administered by the Office of Environmental Affairs in the Department of Natural Resources. DNR's responsibilities in administering the National Ambient Air Quality standards will not be changed because of the LCRP, except that DNR's activities must be consistent with the LCRP. This should not present problems in this area, because Act 361 does not confer any authority to regulate air quality. DNR and CMS/DNR will coordinate their activities through an MOU, which will allow CMS/DNR to condition coastal use permits on obtaining the necessary air quality certifications.

Because air quality regulation will continue to be the responsibility of DNR, it is not necessary to revise the guidelines. Information regarding the state air quality program is available in the State Implementation Program currently under review by EPA.

d) Comment

Guideline 8.8 should be clarified with regard to who, under the proposed management plan, is responsible for the approval of disposal sites and for developing the criteria for approval.

Response

The approval of disposal sites was the responsibility of the Department of Health and Human Resources (DHHR) until January 1, 1980. After that time, OEA of DNR and the Environmental Control Commission of DNR (ECC) became responsible for the development of a comprehensive solid waste management plan and the approval of both existing and new disposal sites on a State wide basis. Moreover, after the implementation of the coastal permitting program, a coastal permit will be required for new sites in the coastal zone. CMS/DNR and OEA/DNR will coordinate their review of new sites under the MOU between the two agencies.

e) Comment

We believe that the enforcement provisions of the management plan included in Section 213.17 of Act 361 are not of sufficient strength to enforce compliance with the coastal permit requirements. It would seem that a specific civil penalty amount per violation, or per day of violation with general relief as may be necessary, would be appropriate. The penalty for knowing and intentional violation of the Act (\$100-\$500 penalty and/or imprisonment for 90 days) should be substantially increased in order to establish the reasonable enforcement mechanism.

Response

OCZM regulations require that coastal management programs be enforceable, but the method of enforcement is within the State's discretion. It should be noted, however, that the potential for enforcement is stronger because Section 213.18(E) of Act 361 also provides for civil damages for restoration costs, and for actual restoration of disturbed areas.

f) Comment

This Draft EIS contains insufficient information to evaluate how the management policies and the planning/permit procedures for implementing the policies serve to balance the conservation of all categories of coastal resources

with development in the coastal zone. Of particular concern is the decision to substitute enhancement program for mitigation efforts. The enhancement programs, designed only for barrier island management and freshwater diversion, while commendable and logical, are not a substitute for mitigation efforts, which should be applied on a site specific and project specific basis in order that each project is developed in the most environmentally sound manner and that each resource is used in the wisest manner.

Response

See Generic Responses A & B on the question of balancing. See Generic Response D on mitigation.

g) Comment

Although the plan incorporates provisions to cooperate with federal agencies in developing monitoring programs, a well-developed and comprehensive program for monitoring the transient state of the coastal zone is lacking. At a minimum, the type of monitoring programs proposed for coastal management, the parameters to be monitored, and the extent of involvement (management, funding, manpower, etc.) should be addressed. Such an effort to monitor the ability of each resource type to support given levels of use should be coordinated with the barrier island management and freshwater diversion enhancement programs.

Response

The LCRP is developing computerized means of detecting changes in selected environmental parameters during the first year of Section 306 funding. This project will involve the Louisiana State University Center for Remote Sensing and will be based on preliminary studies undertaken during the current year. This system is being designed to measure changes in land cover, shoreline length, general land loss, selected barrier island characteristics, salt water intrusion and various water quality parameters. Data sources relied upon will include Landsat and other remote sensing imagery and National Ocean Survey aerial photograph archives as well as other data sources. The development of the monitoring system will be coordinated with each task concerning barrier island management and freshwater diversion which will comprise a major portion of the 306 grant. The LCRP will be glad to provide more information on the monitoring system to interested parties.

h) Comment

The lack of criteria or guidance to be used in assessing significant adverse secondary and cumulative impacts (guidelines 1.6(o) and 1.7(j)) could lead to a pronounced lack of consistency in the permit decision-making process. We find this omission at the state level all the more significant in that many of the decision-makers will be functioning directly under local (parish) programs and the state program contains no provision for federal review of local programs.

Response

Local programs will be reviewed at both the state and federal levels. CMS will review development of local programs under the rules in Appendix c2. In addition, Part VI of the rules requires local governments to submit

annual reports to CMS. The reports will contain information on permit decisions, which will then be evaluated at least every two years for consistency with the state program.

Subpart I of OCZM regulations (15 C.F.R. §923.80, et. seq.) allows for federal review of local programs as they are developed. That review will involve an assessment of local programs for consistency with the state program. In addition, permit decisions made by the local programs will be reviewed by OCZM as part of the annual Section 312 evaluation. See also Generic Response F.

i) Comment

Guideline 1.8, which defines the modifier "maximum extent practicable," adds additional specificity necessary in order to achieve predictable and consistent applications of the guidelines by decision makers. However, we are concerned that the inclusion of guideline 1.8 alone does not go far enough in alleviating the apparent lack of predictability still present in the guidelines. A single case in point is the prominent inclusion of the phrase "feasible and practical" as a further qualifier to the "balancing test" provided by guideline 1.8. The range of choices delineated between the bounds of what is "of established usefulness and efficiency and allow the use or activity to be carried out successfully" could often be so wide as to preclude predictability in decision-making. It could also obviate any incentive to encourage the use of innovative, or even best available, technology.

Response

See Generic Response B.

j) Comment

In consideration of the importance of the Louisiana Coastal Commission in maintaining a balance of conservation and development in the coastal zone, the FEIS should list the qualifications which make each member an appropriate representative of the interests to which that member was assigned.

Response

The Louisiana Coastal Commission (LCC) is established by Act 361 as an independent body within DNR. As noted on page 80, the LCC is composed of twenty-three members: one appointed by each of the affected parishes and eleven who represent varying interests to be appointed by the Governor. Each member has been appointed as required by the law and the group represents both the interests of the parishes and various public and private sectors.

8) Federal Energy Regulatory Commission (Shuster - 17/13/79)

a) Comment

Louisiana may wish to include the following Federal Energy Regulatory Commission (FERC) licensing and permitting certifications in the list of federal licences and permits which may affect the coastal zone:

Federal Energy Regulatory Commission:

Licenses required for non-federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e), and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(e), and 808).

Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (16 U.S.C. 824a(b)).

Certificates of public convenience and necessity for the construction and operation of natural gas pipeline facilities, including both interstate pipeline facilities, including both interstate pipelines and LNG terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).

Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the National Gas Act (15 U.S.C. 717f(b)).

Response

These licenses and permits are included in the revised text under Federal Licenses and Permits in B) Federal Consistency, Chapter VI.

b) Comment

The FERC's licensing authority is separate from the Department of Energy's, we therefore recommend a separate list with the appropriate legal citation for the Department of Energy.

Response

A separate subheading under DOE has been inserted. See revised text B)Federal Consistency, Chapter VI.

c) Comment

The boundary of the coastal zone is not clear and exact enough to permit determination of whether a property or activity is located within the management area in accordance with 15 C.F.R. §923.31.

Response

Section 213.4 of Act 361 provides a specific description of the boundary which is sufficiently detailed as to allow a decision as to whether property or an activity is located within the coastal zone. Furthermore, CMS has large scale maps of the coastal zone boundaries available in its offices for public inspection.

d) Comment

It is unclear whether the Louisiana review process would require that applicants obtain all necessary state permits before a federal consistency determination be made by the State. Such a requirement would be widely restrictive and time consuming.

Response

Applicants for federal licenses and permits must submit a consistency certification and supporting information. The supporting information includes copies

of applications for state permits. The consistency determination by the State will normally be made as the permit application is processed. When a coastal use permit is issued, it constitutes a determination of consistency with the State program.

e) Comment

Since the FERC is an independent regulatory agency, it cannot enter into MOU's with the DOTD concerning the processing of federal consistency determination.

Response

Section 307(c) of the Coastal Zone Management Act requires "each federal agency conducting or supporting activities directly affecting the coastal zone" to carry out those activities "in a manner which is, to the maximum extent practicable, consistent with approved state management programs." The general procedures for implementing this requirement are outlined in Section 307(c)(3)(A) and OCZM regulations at 15 C.F.R. Part 930 (1979).

Federal agencies must comply with these regulations; state-federal interagency agreements are suggested as a method of making the consistency process run as smoothly as possible.

f) Comment

FERC records indicate there are no existing hydroelectric power plants in the Louisiana coastal area. A recent Corps of Engineers report lists, however, a potential hydroelectric development site on the Amite River which borders the coastal zone in Livingston Parish. In light of the current interest in renewable sources of electric generation, such hydroelectric projects may be sited in or significantly affect the Louisiana coastal zone.

Response

No response necessary. Thank you for providing this information.

9) General Services Administration (Penland - 10/11/73)

Comment

The General Services Administration has reviewed the DEIS and has no substantial comment.

Response

No response necessary.

10) Department of Housing and Urban Development (Embry - 11/23/79)

Comment

We have carefully reviewed the proposed LCRP/DEIS and believe that the draft lacks coverage of urban-related issues and needs. The anticipated impacts of many coastal environmental changes caused by urbanization and urban development are neglected or inadequately treated. This lack of specificity and clarity on urban issues may result in problems

in connection with federal consistency reviews, which in many cases will be performed by applicants for CDBG and UDAG grants. For these reasons, we cannot concur with the proposed state plan until a satisfactory resolution of urban coastal issues is made.

Response

The LCRP is a program of resource management, and not a program for land use planning. The LCRP will address urbanization only as it impacts on coastal resources and will not attempt comprehensive planning or direction of urban development.

11) Department of the Interior (Ross - 11/28/79)

a) Comment

The Department recognizes the many potential benefits to Louisiana and the Nation which can result from the implementation of a state CZMP and has attempted to work with the State and OCZM to develop a management program which balances resource conservation with other beneficial uses of the State's valuable coastal zone. We believe, however, that the draft LCRP fails to meet several basic program approval requirements of the CZMA and its implementing regulations. We have been appreciative, over the last few weeks, of the willingness of your Gulf/Islands Region staff and the State staff to clarify aspects of the LCRP. We are hopeful that this close communication between your staff, the State and the Department will continue and result in resolution of our concerns, and in an enhanced, effective CZM program which will meet the approval criteria of the CZMA and implementing regulations.

Response

No response necessary.

b) Comment

Our first and principle concern involves the lack of program predictability. The ambiguous wording and conflicting statements of policy contained in some of the coastal use guidelines make it impossible to predict, with any degree of certainty, the extent of resource development or protection which will take place in the State's coastal zone. In essence, the LCRP does not, in our opinion, meet OCZM requirements that the policies, standards, and procedures by which program decisions will be made provide a clear sense of direction and predictability for decision makers who must take actions pursuant to the management program (15 C.F.R. §§923.3(b)(4) and 923.31(b)(2)). Many of the guidelines and definitions could be improved by the use of examples or by the adoption of evaluation criteria for both uses and impacts. It may be that this next level of detail is or could be contained in the guidebooks mentioned on page 146. If this is the case, the guidebooks should be made available for review prior to program approval.

Response

See Generic Responses A & 8. OCZM believes that the guidelines are of ample scope and specificity and that further regulatory guidance in the form of another layer of evaluation criteria are not needed. Although the additional textual material explaining the guidelines is appropriate, OCZM neither requires nor believes it appropriate that speculative

examples of activities which may or may not be permitted be included in state program documents. The LCRP will develop a guidebook for the program during the first year of program implementation. This guidebook will address such matters as preferred design techniques for minimizing impacts on coastal resources.

c) Comment

An area of major concern to the Department is the number of guidelines whose application is modified by the term "to the maximum extent practicable". While we do not object to the modifier "maximum extent practicable" as a means of assuring program flexibility, we believe the meaning of this term must be more clearly defined.

The FEIS should, therefore, provide added detail as to how the "balancing test" contained in guideline 1.8 will be performed. In particular, the FEIS should state whether "water dependency" will be a primary condition for compliance under guideline 1.8. (The Department believes it should be). In addition, does the examination of "feasible and practical" alternatives require consideration of a no action alternative, i.e., the denial of permits for activities which do not meet the requirements of guideline 1.8?

Response

See Generic Response B.

d) Comment

We have the following comments concerning the LCRP's ability to protect cultural resources:

1. Who will evaluate the proposed use to determine if it would impact cultural resources, and under what set of criteria? Without a standard procedure for review and a set of criteria for evaluating impacts, evaluations may be inconsistent and could be effected by other concerns.

2. We recommend that review processes and sets of criteria similar to those presently used by the State Historic Preservation Office (SHPO) to review the impacts of proposed federal undertakings on cultural resources be developed to implement guidelines 1.6(p) and 1.7(n).

3. All identified resources should be evaluated since they all should not be given the same consideration. A set of evaluation criteria should be developed to determine their local, regional, national, and international importance.

4. Under guideline 1.6(p), how will information on the location of historic and cultural resources be gathered? If a proposed project area has never been surveyed, how will these resources be identified? Will permit applicants be required to survey the area as well as check local, state, and national lists and the state data bank in the SHPO? Who would bear the expense of such a survey?

5. Under guideline 1.7(n), if a proposed permit use is determined to adversely effect or destroy archeological, historical, or cultural resources, will the use be prohibited or will it be required that measures be taken to mitigate the adverse effects prior to granting the permit?

6. What procedure will be used to determine if uses not subject to the coastal use permit program are consistent with the state policy to protect and manage cultural resources?

Response

1. A MOU with the Department of Culture, Recreation and Tourism has been signed. See Appendix n. Through this agreement, the DCRT, specifically the State Historic Preservation Office, will review permit requests for the purpose of protecting Louisiana's cultural resources.

2. A review process is currently in effect in the DCRT which uses the National Register criteria for evaluation of cultural sites. Several studies have been completed identifying the cultural resources in Louisiana's coastal zone (Gosselink, 1979; Burk and Associates, 1978; Coastal Environments, Inc., in preparation). The DCRT input and these studies will be used in making the case by case determinations under the LCRP.

3. As indicated in Chapter VI under "Consideration of the National Interest", historic sites and cultural resources are considered by the LCRP to be in the national interest. As to evaluation importance to the locality, state, etc., the functions will be retained by DCRT.

4. The DCRT currently has located on topographic maps all the known sites of cultural importance in Louisiana. These charts are constantly being updated. As an additional measure, field inspectors from Louisiana's DWF will be instructed in the identification of archaeological sites in Louisiana's coastal zone. This will provide spot checks for cultural sites when field investigations are requested. DCRT has established basic criteria on which to base requests for surveys. These surveys are ultimately the responsibility of the lead federal agency, the Corps of Engineers.

5. Under the MOU with DCRT and guideline 1.7(n), adverse alteration or destruction of archaeological historical or other cultural resources will be avoided to maximum extent practicable. If the impact is unavoidable, the recommendations of the DCRP concerning mitigation will be followed.

6. Uses not subject to coastal use permits will be subject to a consistency determination under the LCRP. If appropriate, the assistance of the DCRT will be sought.

e) Comment

Guideline 2.1 indicates that the leveeing of unmodified or biologically productive wetlands shall be avoided to the maximum extent practicable. The LCRP defines these areas as wetlands in which the intervention of man has caused minimal impacts on biological productivity (Appendix m-2). The Department requests that the LCRP provide the following information:

1. The extent to which the geographic location and extent of these biologically productive wetlands in Louisiana are known and documented.
2. The availability of this information to individuals who must make decisions pursuant to the LCRP.
3. Examples of activities requiring leveeing which would be permitted to occur in biologically productive wetlands.

Also, we recommend that in guidelines 2.1 and 2.3 the term "shall be avoided to the maximum extent practicable" be replaced with "shall be prohibited."

Response

1. Although determinations will be made on a case-by-case basis as to the nature of the area of a proposed project, most of Louisiana's wetlands would be categorized as being unmodified or biologically productive. Relatively little of the vast area of Louisiana's wetlands has actually been studied as to productivity. However, any area with plant growth and detrital export is considered to be biologically productive.

2. Numerous vegetation and topographic maps as well as high altitude photography are available for the use of decision makers. Information about a particular area in which development is proposed will be obtained through the permit review process. The Administrator is authorized to request the applicant to provide information "reasonably necessary for proper evaluation of an application." Additional information may be obtained through public participation in the permit review process.

3. As noted previously, OCZM neither requires nor believes it appropriate that speculative examples of activities which may or may not be permitted be included in state program documents. The acceptability of levee projects impacting biologically productive wetlands will be made on a case-by-case basis consistent with all applicable guidelines.

4. Changing the operative language of guidelines 2.1 and 2.3 to "shall be prohibited" would not provide a balanced approach for coastal management, due to the limited number of non-wetland sites available for development in coastal Louisiana. The use of the term "to the maximum extent practicable" triggers the balancing process of guideline 1.8 which will minimize adverse impacts on biologically productive wetlands through reasoned decision making.

f) Comment

In order to clarify the distinction between hurricane/flood protection levees and development levees (p. 68), we request that the following questions be answered:

1. Can wetlands enclosed by hurricane protection levees be declared fastlands when inappropriate levee construction and operation causes substantial ecological degradation of the wetland?

2. Can wetland areas enclosed by hurricane protection levees later be drained and developed under any circumstance?

3. Are wetlands enclosed by flood protection/hurricane levees considered "biologically productive wetlands" for the purposes of implementing the LCRP?

4. Would wetlands which are enclosed by a development levee be eligible for a fastland designation in accordance with the fastland definition included in the management program? What type of activities would require development levees?

Response

1. No. Guideline 2.6 clearly states that any future development of hurricane protection levees shall be developed in such a way as to minimize disruption of water flow, beneficial nutrients or aquatic organisms between enclosed wetlands and coastal waters. The enclosed area including wetlands will not be considered a fastland and all activities proposed for such areas shall be subject to all rules, regulations and guidelines of the LCRP to the same extent as required elsewhere in the coastal zone.

If pre-existing validly constructed hurricane protection levees prevent a significant interchange of water between the enclosed area and coastal waters, the enclosed area and coastal waters, the enclosed area would be considered a "fastland". This "fastland" would not be subject to the permitting procedure of the LCRP, but would still be subject to any other federal, state or parish governmental authority.

2. As noted above, action proposed for wetland areas enclosed by hurricane protection levees are subject to the coastal use permit program. Wetlands behind such levees may be drained and filled when such activities are consistent with all relevant guidelines.

3. Wetlands enclosed by hurricane/flood protection levees permitted under the LCRP in conformance with guideline 2.6 will continue to be biologically productive because they shall be built and maintained to minimize disruptions in the interchange of water, beneficial nutrients and aquatic organisms between the enclosed wetlands and those outside the levee system. The biological productivity of wetlands which are enclosed by existing hurricane and flood protection levees will be judged on a case by case system.

4. Wetlands enclosed by development levees would be eligible for designation as "fastlands" if the enclosed areas meet all the criteria included in the fastland definition provided by Act 361. Many types of activities could require a development levee; these include but are not limited to urban development and agricultural development. See also Generic Response C.

9) Comment

In guideline 3.1, we suggest that the definition of "irreplaceable resource areas" be expanded to include examples. Have these areas been identified? How will this guideline be applied where "irreplaceable resource areas" are not delineated?

Response

All irreplaceable resources have not been identified. Examples of irreplaceable resources include submersed grass beds, barrier islands and beaches, endangered species and unique habitats, archaeological sites, and oyster reefs. Several studies have been completed which show areas of concern in Louisiana (Gosselink, 1979; Burk and Associates, 1978; Coastal Environments, Inc., in preparation). Field investigations by the Louisiana Department of Wildlife and Fisheries on coastal use permit applications will further identify such resource areas for consideration in the permit process on a case-by-case basis.

h) Comment

In guideline 3.3, we recommend that examples of "minimum practical size and length" linear facilities for various activities be added.

Response

Examples of "minimum practical size and length" for linear facilities involving dredging cannot be given, as each activity must be examined on a case-by-case basis. Each dredging activity will be reviewed according to method of construction, type of habitat, and other factors identified in the guidelines in order to determine acceptable lengths and widths.

i) Comment

We recommend that the phrase "or on any wetland area" be added at the end of guideline 5.6.

Response

The impacts on wetlands of activities required for marina construction such as dredge and fill, spoil disposal, and channel dredging are adequately addressed in guidelines 1.7(e) and (o), 3.1, 3.2, 4.3, 4.4, 6.4, 6.8, and 6.9. The primary purpose of guideline 5.6 is to reduce the adverse impacts of pollutants derived from marinas and similar developments on sensitive coastal ecosystems, specifically productive oyster beds and submersed grass beds. Dumping of waste from marinas, etc., may include not only sewage and human waste, but fish and food scrap, oil and contaminated water. Oysters are particularly sensitive to pollution. During their feeding process, oysters filter water and retain harmful bacteria, such as coliforms. Oysters also concentrate oil in their systems. Submersed grass beds play a small but important role in the coastal system, providing a food resource to diverse species. Because submersed grass beds are located in only seven places in coastal Louisiana (Burk and Assoc., Inc., 1977:24) there is a need to protect them from any adverse effects caused.

j) Comment

The following clarification is needed with regard to the guidelines, or Surface Alterations (pp. 59-60):

1. Could the nine of the thirteen guidelines in this section which contain the term "to the maximum extent practicable" be used to sanction development in wetland areas?

2. How will consistency between guidelines 6.2 and 6.4 be achieved in light of the self-contradictory nature of guideline 6.4?

3. We request that the LCRP provide specific examples of drainage improvement or fill projects which would be permitted to occur in wetlands where the surface alteration guidelines 6.1, 6.2 and 6.4 as well as levee guideline 2.3 are applied.

Response

1. Development in wetland areas pursuant to the guidelines will be permitted only if it meets the criteria contained in the guideline at issue and guideline 1.8, which provides a suitable balancing of conservation and development needs.

2. Guideline 6.4 is not self-contradictory. Draining and filling of wetland will be permitted only if it meets the criteria contained in guidelines 1.8 and guideline 6.4. For example, if best practical techniques are used to minimize present and future property damage and adverse environmental impacts.

3. Only those drainage and fill projects meeting the standards contained in all relevant guidelines, including guideline 1.8, will be permitted. OCZM neither requires nor believes it appropriate that state programs include speculative examples of activities that may or may not be permitted in state program documents.

k) Comment

We recommend that the term "maximum extent practicable" be deleted from guideline 6.9. The FEIS should also indicate the availability of specific information on breeding and spawning areas and important migratory routes to decision makers.

Response

The use of the term "maximum extent practicable" in guideline 6.9 is necessary in order to give the decision maker the flexibility needed to deal with specific projects. The use of the term triggers the balancing process of guideline 1.8, which allows the decision maker to weigh benefits against adverse impacts, and to consider alternatives and conditions. Specific information on breeding and spawning areas will be provided to CMS/DNR by the Louisiana Department of Wildlife and Fisheries as necessary before permits will be issued.

l) Comment

We believe that guideline 8.1 should read "the location and operation of waste storage, treatment, and disposal facilities shall be prohibited in wetlands,".

Response

Some activities associated with certain water-dependent activities generate waste. It would be unrealistic to strictly forbid all waste disposal in the wetlands, since this would require disposal of some waste generated in wetlands on valuable terrestrial habitat. The modified standard of guideline 8.1 allows for case-by-case analysis of waste disposition.

m) Comment

The guidelines for oil and gas, and other mineral activities (pp.64-65) should be clarified to provide for predictability in permit issues for oil and gas activities in wetlands. Examples based on current and past Corps of Engineers

Section 404 permit applications for oil industries-related activities could be used. We suggest that criteria to be used in determining the feasibility of directional drilling be presented in guideline 10.2.

Response

As noted previously, OCZM neither requires nor believes it appropriate for speculative examples of permitted or non-permitted activities to be included in program documents. With regard to directional drilling, CMS/DNR will fund an in-depth study of directional drilling to be undertaken by the Louisiana State University School of Petroleum Engineering during the first year of program implementation. Work under this study will be coordinated with the Corps of Engineers, other relevant state and federal agencies, the oil and gas industry and other interested public and private groups.

n) Comment

It is essential that the memoranda of understanding (MOU's) for implementation of the in lieu permit process be signed and available for federal agency review prior to program approval. Moreover, the final program document should describe the legal status and enforceability of MOU's under Louisiana law.

Based on the limited information provided in the LCRP, we question whether the process for incorporation of the "in lieu" permit program of the Office of Conservation - Department of Natural Resources will assure consistency with the LCRP as required by Section 923.43(c) of the federal regulations.

We also question whether the DOTD will have adequate administrative mechanisms to ensure that the activities of the OCM-DNR will be conducted in a manner consistent with the coastal use guidelines. The LCRP indicates that final determinations of OC-DNR permit consistency with the LCRP will be made by OC-DNR staff. The designation of OC-DNR as the agency responsible for deterring "in lieu" permit consistency (Act 361, Section 213.12) is inconsistent with the discussion of page 79 of the management program, which states that the DOTD is responsible for determining whether permits issued by other State agencies are consistent with the LCRP. Second, what procedures will be followed to ensure that DOTD recommendations on OC-DNR permit applications are adequately considered and fully incorporated into the permits issued on oil, gas or other mineral related activities? Third, what specific procedures will be utilized to resolve conflicts between the LCRP coastal use guidelines and OC-DNR "in lieu" permit activities or conflicts between DOTD and OC-DNR regarding what constitutes conformance with the coastal use guidelines?

Fourth, what enforcement mechanism will be available to assure OC-3NR implementation of and adherence to the coastal use guidelines? Will DOTD take specific action where the OCM-DNR issues permits which are clearly inconsistent with the management program?

Response

See Generic Response G.

o) Comment

The policy mandates of a number of existing state programs incorporated into the LCRP may conflict with the policies established in the Coastal Use

Guidelines. In the means for coordinating the coastal use permit program with other state programs is also to be through MOU's (pp.145-146), then these must also be signed that the final program should also detail the administrative process that will be followed in cases where the MOU's are ineffective in resolving major conflicts.

Response

See Generic Response G. The conflict resolution procedures in the MOU's are mandated by Section 213.14(D) of Act 361, which provides for conflict resolution through joint action of the Secretaries of the Departments of Transportation and Development, Natural Resources and Wildlife and Fisheries. If the procedures outlined in the MOU's prove to be ineffective enforcement actions may be brought by CMS/DNR under Section 213.17 of Act 316.

p) Comment

Federal agencies are also expected to be consistent with other state programs which have been incorporated into the LCRP, but whose policies, regulations, and procedures are inadequately described. This detailed information must be included in the FEIS.

Response

The citations of all the state programs that are being incorporated in LCRP have been included in the FEIS. Information on these programs is available in the Louisiana Register or from CMS/DNR. CMS/DNR will meet with relevant federal agencies during the initial months of the program implementation to develop more detailed procedures for federal consistency and other issues related to program coordination. Finalization of these procedures prior to program approval is not required by OCZM regulations.

q) Comment

The LCRP proposes to utilize federal consistency review of U.S. Army Corps of Engineers permits and MOU's, to assure that deepwater port activities are consistent with the LCRP. Since we find no provision in OCZM's regulations which would allow a state to enforce a policy through federal consistency procedures, the legal basis for this approach must be included in the final program document. It is also unclear to what extent MOU's will be utilized. The LCRP indicates that an interim MOU will be entered into with the Port of New Orleans. Greater detail should be provided in the LC2? or the number of ports, harbors, and commissions which will be developing MOU's with the DOTD. Furthermore, these MOU's should be in place and available for federal agency review prior to program approval.

Response

We agree that the discussion in the DEIS was unclear; consequently the text of Chapter IV has been revised to clarify how consistency will be used.

There are no plans at this time to develop MOU's with deepwater ports other than the Port of New Orleans. All deepwater ports and harbors must conduct their activities in a manner consistent with Act 361, however.

r) Comment

Lacking additional information necessary to understand the extent of the exemptions to the coastal use permit program, we believe that the exemptions for activities in fastlands, the construction of camps and residences, and

forestry and agricultural practices, may be of such significant scope that the LCRP cannot provide for the management of all uses having a direct and significant impact on coastal water as required by Section 306(d) of the CZMA, and implementing regulations.

1. We believe that the definition of fastlands included on page 87 of the LCRP must be expanded to specifically exclude wetlands from the fastland designation. The Department is concerned that administration of the coastal use guidelines may result in the construction of levees which enclose large areas of wetland. These enclosed wetland areas could then be declared fastlands exempted from the coastal use permit program, and subsequently developed. We also request that the final program provide the specific circumstances under which development and hurricane protection levees would be permitted to enclose wetland areas to create fastlands.

2. The Department is concerned that nutrient runoff and erosion associated with agricultural and forestry activities conducted in the coastal zone will, directly and significantly impact the chemical, physical, and biological integrity of coastal waters. While we recognize that the LCRP discusses these activities in terms of "good management practices" (p. c1-6) and "best practical techniques" (page 63), the specific management practices that will be utilized to minimize adverse impacts resulting from these activities have not been included in the DEIS. We also recommend that the LCRP discuss to what extent these activities will be coordinated with areawide plans developed under Section 208 of the Clean Water Act of 1977.

3. We are concerned that the proliferation of single family residences and camps will result in cumulative adverse environmental impacts affecting fish and wildlife and critical habitat for endangered species. Accordingly, we request that the FEIS discuss the specific procedures that the State will use to assess cumulative impacts resulting from the construction of single family residences. We also request that the FEIS provide information on the extent and adequacy of existing state and local control over the construction of camps and residences in coastal areas which would otherwise be subject to the management program.

Response

1 and 3. See Generic Response C.

2. While nutrient runoff and erosion from agricultural and forestry activity E are a very important cause of eutrophication of coastal waters, Louisiana's determination to exclude ongoing normal farming and forestry activities from permitting is consistent with Congress' similar decision regarding Section 404 permits. However, the development of drainage systems, which at times have accelerated and increased runoff and eutrophication, are subject to coastal permits. The specific techniques to be used to minimize runoff and other adverse impacts from drainage projects, or from agricultural or forestry activities subject to a coastal permit, are to be determined on a case by case basis with assistance from interested federal

and state agencies. In as much as any areawide plans developed under Section 208 may be considered a water quality standard under guideline 1.2, such standards must be met. Coordination will be carried out through ongoing consultation and coordination with the OEA of DNR.

s) Comment

The Department is generally pleased with the procedures established in Act 361 and the LCRP for designating special management areas, particularly those sections of Act 361 which authorizes DOTD to develop an indexing system for identifying critical coast lines, and a freshwater diversion plan to compensate for wetland losses. We are, however, disappointed that the State has designated only two areas for inclusion in the LCRP at this time.

Response

Designation of special management areas pursuant to Act 361 requires the development of specific area management guidelines. The formulation of these guidelines will require much scientific analysis and intergovernmental coordination. The first year Section 306 grant work program includes specific tasks which will provide the basis for the designation of four special management areas. These include the Port of New Orleans, the barrier island system, Lake Pontchartrain and potential wetland areas suitable for freshwater diversion. (see response to comment (t) below.)

t) Comment

The Department believes that the LCRP fails to provide adequate procedures for the mitigation of resource losses resulting from the siting of major projects in the floodplains or wetlands when there is no practicable alternative (15 C.F.R. §923.3(b)). The LCRP proposal to offset these resource losses through the implementation of various enhancement programs may not be an acceptable substitute for fish and wildlife habitat losses, since many of these programs rarely provide equal compensation for habitat quality and values destroyed by development projects.

The FEIS should provide the following specific information relating to the development and implementation of these enhancement programs.

1. To what extent have specific areas been identified as suitable candidates for the enhancement program?
2. Are state-funded freshwater diversion projects currently being developed and implemented in Louisiana?
3. What procedure will be utilized to determine the specific management objectives for these particular areas?
4. What specific procedures will be utilized to prioritize these enhancement projects with other areas under consideration as special management areas?
5. What will be the level of state commitment (in dollar terms) to these enhancement projects during the first year of the LCRP implementation. Also, will CEIP funds be used to mitigate impacts associated with coastal energy activities?

6. What is the anticipated time frame for the designation, development, and implementation of fresh water diversion projects during the first year work program?

7. What other specific procedures will be utilized to mitigate resource losses resulting from the siting of major facilities in coastal areas on a case-by-case basis?

Response

See Generic Response D concerning mitigation.

1 and 2. Coastal environments, Inc.. has done extensive work in identifying areas as targets for enhancement programs. Gagliano and Van Beek (1976) have identified several areas suitable for sediment diversions.

Burk and Associates (1979) have assessed the impact of freshwater diversions in Jefferson Parish (CEIP funded) and T. Baker Smith and Son, Inc. (1979) has assessed areas within the Atchafalaya Basin for freshwater diversions. In addition, a CEIP funded freshwater diversion project is currently operating in Violet, Louisiana. The first year Section 306 work program includes an extensive study to identify suitable areas for freshwater diversion projects.

3. Particular management goals for freshwater diversion areas will be formulated through an integration of biological and land use goals of state and local authorities.

4. Freshwater diversion projects will focus on areas that are in the greatest need. Thus, priority will be given to areas where land loss, erosion and/or saltwater intrusion are particularly serious.

5. State commitment to diversion programs in the first year of implementation (1980) is \$200,000. In addition, CEIP funds have provided \$1,757,000 to the Violet freshwater diversion project. CEIP funds may be used to construct future projects.

6. The development of freshwater diversion plans in Louisiana will be completed in two years. Three hydrologic basins will be studied in the first year. Implementation of the plans will follow review of the plans by federal, state and local agencies.

7. Alternatives and methodologies which provide mitigation will be considered as permits are reviewed on a case-by-case basis. Considerations will primarily consist of alternatives for disposal of dredge material, backfilling of canals, and removal of roadways

u) Comment

The LCRP discussion of federal consistency procedures, (p. 130-138) is too brief, and as a result, often vague or ambiguous. Since we assume that the State intends to develop specific procedures through memoranda of understanding (MOU's) with affected federal agencies (p. 131), we strongly urge that these MOU's be negotiated prior to program approval, or at least within the first few months of program implementation.

Response

The federal consistency provisions will be implemented through memoranda of understanding and procedural rules which will be finalized during the first year of program implementation. OCZM regulations do not require these MOU's to be finalized prior to federal program approval. CMS/DNR staff will be meeting with affected federal agencies in the coming months to work out specific procedures.

v) Comment

The Department is also concerned about the feasibility and practicality of making consistency determinations using the standards contained in the guidelines and regulations, and the policies and implementing regulations of almost forty other activities or programs which have been "incorporated" into the LCRP. While we recognize and support Louisiana's efforts to develop a coordinated permit system, we are concerned about the apparent difficulties of making consistency determinations, particularly given the limited amount of information which is available in the LCRP itself. In order to make federal consistency determinations "workable" in the short term, the FEIS must contain additional guidance to federal agencies (and to applicants for federal licenses and permits) prior to program approval. Such guidance might be in the form of interim overall criteria for determining consistency or a more detailed guide to the relevant policies and regulations. This guidance should specify a procedure for sorting out conflicts or inconsistencies among the various policies.

Response

Finalization of consistency procedures prior to program approval is not required by OCZM regulations. The LCRP will provide additional information regarding the standards for making consistency determinations in the first year of program implementation. This additional guidance for federal agencies will alleviate many difficulties in making consistency determinations.

w) Comment

It is suggested that the LCRP coordinate with the Bureau of Land Management concerning a number of federal consistency issues noted herein.

Response

CMS/DNR will work closely with BLM to develop specific federal consistency procedures during the first year after federal approval of the program.

x) Comment

The Department supports the development of local coastal management programs, but believes the text on pp. 91 and 92 and Appendix c2, which describes this process, needs further clarification. First, item (1) on the bottom of p.91 should be changed to read "local governments, in developing local programs, shall afford full opportunity for municipalities, federal, state and local government bodies, and the general public to participate in the development compliance with OCZM regulations."

The Department's Regional Environmental Officer should be contacted for an updated list of regional bureau contacts when the local program development process begins. These contacts should be given an opportunity for coordination and review at each significant step in the local program development and review process.

Response

The revised procedural rules contained in Appendix c2 provide for such participation. The Department of the Interior will be given an opportunity to comment during the development of local programs.

y) Comment

The DEIS contains no details concerning the federal approval process which must be completed before a local program can become part of the LCRP. We believe this is a serious and potentially misleading omission, which should be corrected in the FEIS. In addition, if the local programs are to be used for federal consistency purposes, we believe they must be treated as amendments as provided for by the CZMA and implementing regulations (15 C.F.R. §923.81-82).

Response

Appendix c2 provides the Rules and Procedures for the Development, Approval, Modification and Periodic Review of Local Coastal Programs as prescribed under Act 361. The federal approval process for inclusion of these local programs in the LCRP are found in federal regulations at 15 C.F.R. §923.80-84. The determination of whether local programs will be treated as amendments or routine implementation will be made based on those federal regulations.

z) Comment

Although the LCRP recognizes the presence of endangered species, it has not been determined if listed species may be affected by the proposed action in accordance with the Endangered Species Act of 1973, as amended, and the Section 7 regulations published in the Federal Register on January 4, 1978.

Response

Section 7 consultation under the Endangered Species Act is not required because federal approval of the LCRP is not an action which will jeopardize endangered species. Federal approval will be directed at a programmatic scheme rather than an individual project which might alter specific habitats. LCRP decision makers will consider the presence of endangered species as part of the consideration of the national interest under guidelines 1.6-1.8.

Species whose presence has been determined in the Louisiana Coastal Zone include southern bald eagles, brown pelicans, mixed strains of red wolves, and loggerhead sea turtles. Loggerhead sea turtles nest in the National Wilderness Area established on the Chandeleur Islands.

12) Department of Transportation (Simpson - 11/28/79)

a) Comment

The discussion on page 136 is misleading in that it lists the FM as issuing permits for the operation of airports. FAA issues advisory airspace determinations for the establishment or expansion of airports and operating certificates for air carrier airports. These activities should not require a certification of consistency. It is acknowledged that coastal zone management activities could affect the FAA Airport Development Air Program (ADAP) and the FM would appreciate the opportunity to review any subsequent updates.

Response

See revised text in Chapter VI. F. M's request for review of updates will be acknowledged by forwarding a copy of the FEIS.

b) Comment

The United States Coast Guard wishes to commend Louisiana on their initial efforts to develop a viable program for the Louisiana coastal zone. They look forward to meeting with the state coastal management office in order to develop a Memorandum of Understanding that will insure maximum cooperation and avoid unnecessary and redundant program action and reviews.

It is hoped that Louisiana will take a conservative approach in interpreting its guidelines and criteria to ensure the protection of coastal wetlands resources to the maximum extent possible.

Response

No response necessary. Thank you for your review.

13) Louisiana Department of Natural Resources, Office of Forestry (Robinson - 11/6/79)

Comment

The Office of Forestry wishes to confirm the statements in the text of the LCRP concerning forestry and forestry-related activities as being exempt from regulation.

Response

According to Act 361 Section 213.15, "forestry activities on lands consistently used in the past for such activities" are exempt from the coastal use permit program. Part II G of the Rules and Procedures for Coastal Use Permits describes the exemption more specifically. Section 213.13 of Act 361 also provides that activities of governmental bodies, such as the Office of Forestry, shall be consistent to the maximum extent practicable with the state program and affected approved local programs.

14) Louisiana Department of Transportation and Development - Offshore Terminal Authority
(Perrin - 10/25/79)

Comment

The following suggestions regarding the "existing special areas" section of Chapter V are provided:

1. The first sentence on page 103 should read:

"LOOP, Inc. (Louisiana Offshore Oil Port, Inc.) applied for state and federal licenses to develop the Super-Port in December, 1975, one month after the federal regulations were published in the Federal Register."

2. The second paragraph on page 106 should read:

"The licensee as required in the Environmental Protection Plan is responsible for any discharge of oil or any substance which may cause loss or damage to the environment and should any damage occur, to take appropriate action to compensate for such environmental losses."

Response

See revised text in Chapter V.

15) South Central Planning and Development Commission (Fingerman - 11/7/79)

a) Comment

The LCRP has not yet worked with the parish governments in integrating local programs with the Corps of Engineers permit process. A MOU exists between the Corps and DOTD, but no such agreement exists at the local level.

Response

The proposed MOU will be between CMS/DNR and the Corps initially. As local programs are approved, applications for local permits will be integrated into the coordinated permit process.

b) Comment

The LCRP does not discuss the means of measuring or addressing cumulative impacts.

Response

See Generic Response F.

c) Comment

The LCRP should develop a liaison with the 208, solid waste, hazardous waste, and other programs and coordinate their functions to avoid conflict.

Response

See Generic Response G.

d) Comment

The means for coordination between parishes is not clear. Regional agencies, such as RPC's, should play some role in any future coordination process developed by the State.

Response

The RPC's can play a valid role in review and comment on their respective parishes' permits and programs and on the state permit program. The 2PC may also be able to comment on consistency among parishes regarding regional interests. However, Act 361 does not empower the State to delegate any authority to RPC's, and participation by RPC's is not required by the CZMA.

e) Comment

The phrase "maximum extent practicable" in guideline 1.8 leaves too much discretion to the Administrator. This phrase needs to be defined in a clearer, more concise, and stricter manner.

Response

See Generic Response B.

f) Comment

In guideline 1.6, information concerning the benefits to the natural system and their extent should be offered.

Response

Guideline 1.6(s) requires consideration of the extent of long term benefits and adverse impacts. It is implied that benefits will be assessed for the natural system, economy, social welfare, and all other factors and resources.

g) Comment

Guideline 2 lacks a section on emergency levee construction. Although the procedural rules address this issue, there should be a guideline to aid the parish and State program administrators.

Response

This is a procedural issue which is adequately addressed in the procedural rules. Because the guidelines contain only substantive standards, an additional guideline on this issue would be inappropriate.

h) Comment

For guideline 3.1 to be effective, "areas of high biological activity" and "irreplaceable resource areas" need to be identified by use of scientific parameters.

Response

The modifier "high" is used to denote areas of above significant biological productivity. "Irreplaceable" is used to identify resource areas that are not renewable. Linear use alignments shall be planned to avoid adverse impacts on such areas. Available scientific data will be used in the identification of such areas. See also response to comment 14(9).

i) Comment

How will various uses be encouraged to locate in the areas identified in guideline 6.1?

Response

The decision maker will consider siting requirements, including alternative sites. Guidance will be given in the conditions which are attached to permits.

j) Comment

How will the public and private work projects be encouraged pursuant to guideline 6.2?

Response

See response to comment 15(i).

k) Comment

How will the special consideration be given water dependent uses in guideline 6.5?

Response

Coastal water dependent uses are limited in location alternatives primarily due to limited access. Because of this, special consideration must be given to location choices for necessary facilities through the process in guideline 1.8.

l) Comment

Who will determine "critical wildlife areas and vegetation areas" pursuant to guideline 6.8?

Response

The modifier "critical" is used to indicate those wildlife and vegetation areas of extreme importance to the integrity of specific species. These areas will be identified through scientific techniques by cooperative efforts between federal, state, regional and parish agencies.

m) Comment

How will "expectable" be defined in guideline 8.3?

Response

"Expectable adverse conditions," the term used in guideline 8.3, is defined in Appendix c6, definition (14).

n) Comment

The phrase "with an approved monitoring system", needs to be added to guideline 8.8.

Response

Disposal sites are approved by the Environmental Control Commission in the Department of Natural Resources subject to their rules and guidelines.

o) Comment

The phrase "as soon as possible" needs to be added to guideline 10.11.

Response

The guideline does not need to be revised because the phrase is implicit in the current language.

p) Comment

The guidelines for forestry uses included in previous drafts should be reinstated as mandatory.

Response

The Secretary of the Department of Natural Resources requested that those guidelines for forestry use not be made mandatory. The Secretaries of DNR, DOTD, and WLF decided to submit these guidelines as non-mandatory. The LCC decided to delete the guidelines since they were non-mandatory. OCZM regulations do not require this for program approval.

q) Comment

Three items should be added to the "Rules and Procedures for Coastal Use Permits" and "Rules and Procedures for the Development, Approval, Modification and Periodic Review of Local Coastal Management Program (Appendices c(1) and

c(2): (i) The Cumulative impacts problem needs to be addressed. Regulations and standards need to be developed. (2) Coordination between parishes needs to be addressed. (3) The subject of permit fees to be charged by the local program is not discussed. It may be necessary for local programs to generate funds by fees, once federal program implementation funds are no longer available.

Response

1. Guideline 1.7(j) requires avoidance of adverse effects of cumulative impacts. This will have to be considered by both state and local permit authorities. See Generic Response C.

2. Act 361, Section 213.9C(3c) and the rules and regulations for local programs, Appendix c2, Part II and Part III - G(5b), (5c) and (5d) require coordination methods between parishes prior to local program approval.

3. Act 361, 213.11 G. gives the Secretary the authority to establish a reasonable schedule for permit application fees. Part III C of the rules and regulations Appendix c1, provides for establishment of fees by local governments with approved programs.

r) Comment

Appendix c1, Section III D(3) and VI A(2): Two (2) working days are too little time for local governments to determine whether a use is of state or local concern; five (5) working days would be reasonable.

Response

Section 213.11 C (1) of Act 361 states that a "use-type determination" shall be made by the parish administrator within 2 days of receipt.

s) Comment

Appendix c1, Section III D(6): What happens if the permit decision is appealed?

Response

Comment accepted. Appeal procedures are outlined in the revised rules and procedures in Part III D(8) and Part V E in Appendix c1.

t) Comment

Appendix c2, Section II B: The State should provide assistance to parishes to accumulate relevant social and economic data.

Response

CMS has provided parish governments with \$1,256,600 during the last 4 years to accumulate social, economic and environmental data. The CMS has also published numerous documents which address this issue, such as: Present Growth Trends and Environmental Impacts of Louisiana's Wetlands Settlements (1975), Urban Development in the Louisiana Coastal Zone: Problems and Guidelines (1976), and Projected Parish Land Needs (1977).

u) Comment

Appendix c2, Section II C: The state should provide relevant information concerning existing and potential resource-use conflicts.

Response

The philosophy behind local coastal programs is that local governments are better able to assess the problems in their area. Although the state program will assist the parishes in developing their programs whenever possible, this type of data is more readily available to parish governments and should be compiled as part of the parishes decision-making process in developing the parish program.

v) Comment

Appendix c2, Section II I: Local input appears to be ignored with regard to uses affecting regional, state, or national interests.

Response

All parish comments on uses of regional, state or national interest shall be given the utmost consideration. Section 213.11(C)(3) of Act 361 further states that all permit decisions must be consistent with approved local programs and Sections 213.13(B) and (D) add that any governmental activity or undertaking must also be consistent with approved local programs.

w) Comment

Appendix c2, Section III B: The mapping and descriptive requirement should state the scale and degree of detail desired.

Response

The mapping and descriptive requirements for natural features, resources, and existing land uses will vary according to need and availability of the information. The optimum situation would be to have the largest scale maps and most detailed descriptions that would be practical. Most parishes do not have all of the required information available at that scale or detail. A case by case determination will have to be made on each map in every parish as to the scale and detail that will be appropriate.

x) Comment

Appendix c2, Section III G(3): The word "illustrative" should be added before the list of items to be included in the description of parish authorities and administrative arrangements.

Response

Comment accepted. See revised rules and procedures in Appendix c2.

y) Comment

Appendix c2, Section III G(4): does this refer to local laws or state laws? If the laws are state laws, the State should insure compliance with Act 361.

Response

Comment accepted. The revised rules and procedures in Appendix c2 refer to local laws.

Note: the following comments on the coastal use guidelines made by the Lafourche Parish CZM Advisory Committee were attached to the above comments.

z) Comment

The phrase "maximum extent practicable," found in guidelines 3.2, 3.17, 4.6 and other guidelines is vague and misleading. Who actually determines this? Industry does not have an historical record of protecting the environment.

Response

See Generic Response B.

aa) Comment

Who will supervise the maintenance of waterway plugs required by guideline 3.11? What will be the legal consequences of not maintaining the structures?

Response

Under guideline 3.11 the permittee is required to install and maintain plugs. Field investigation by Department of Wildlife and Fisheries personnel after construction and periodically thereafter will insure that the plugs are properly maintained. Section 213.17 of Act 361 gives the Secretary the authority to impose civil liability and to assess damages and payment of restoration costs to permittees who are found in violation of their permit conditions.

bb) Comment

It is unclear where spoil will be disposed pursuant to guideline 4.4.

Response

Guideline 4.4 seeks to prevent the disposal of dredge spoil on unique areas. Oyster reefs and grassbed areas are examples of highly productive and unique areas. Deposition on wetlands will also be avoided where possible. Alternatives, such as placing spoil at the marsh edge or backfilling old canals will be considered in each case.

cc) Comment

The phrase "when appropriate" should be deleted from guideline 5.7.

Response

The phrase is necessary to allow the State to remove structures when the owner cannot be found. In addition, it may not always be environmentally or economically beneficial to remove a structure.

dd) Comment

Guideline 5.8 should read: "Shoreline stabilization structures shall not be built for the purpose of creating fill areas for development."

Response

The proposed change in guideline 5.8 does not take the multi-use goal of the LCRP into consideration. Under a good management plan, these structures may be necessary for approved development.

ee) Comment

Guideline 6.1 should read: "To this end, intensive use of land will be encouraged in locations where all of the following conditions are met."

Response

The extent of development in areas designated as suitable for development may require that uses extend into areas other than those mentioned. The proposed change would restrict this possibility.

ff) Comment

Guideline 6.2 seems to encourage both commercial and private development of the coastal zone which may not be consistent with guidelines 1.7(p),(q),(s) and (u).

Response

Subsection (b) of guideline 6.2 will insure that, to the maximum extent practicable, any permitted use addressed in guideline 6.2 will be consistent with guideline 1.7.

gg) Comment

Guideline 6.4 is vague and contradictory. We interpret this to mean that "you should try to avoid draining or filling the wetlands, but if you need to do it, then go right ahead." This general comment also applies to guide lines 6.6, 6.7 and 6.8.

Response

See Generic Response B.

hh) Comment

Who will monitor and enforce the restoration called for in guideline 6.6?

Response

See response to comment 15(aa).

ii) Comment

The committee is not aware that our coastal areas contained "non-critical wildlife areas" as implied by guideline 6.8. If so, we should point them out on a map.

Response

The intent of guideline 6.8 was to specifically mention areas such as wild life preserves, eagle nests, etc. Although the coastal area represents habitat that is necessary to indigenous and migrating species, the entire zone could not be specified as critical.

jj) Comment

Who will oversee the implementation of guideline 6.14?

Response

The Administrator of CMS as part of the issuance of coastal use permit can require the necessary tests to insure that fill material complies with guideline 6.14.

kk) Comment

Guideline 8.1, which deals with storage, treatment and disposal of wastes, is in conflict with other guidelines which are supposed to protect wetlands.

Response

No conflict exists where a project is in compliance with guideline 1.8.

ll) Comment

Guideline 8.6 may be in conflict with guidelines 1.7(o),(p) and (u).

Response

Proposed uses must be in compliance with all applicable guidelines.

16) St. Bernard Parish Planning Commission (10/30/79)

a) Comment

The St. Bernard Parish Planning Commission wishes to commend the Louisiana DOTD and the OCZM for their fine efforts in preparing the LCRP/DEIS. The Planning Commission is supportive of the document.

Response

No response necessary. Thank you for your review.

b) Comment

The St. Bernard Parish Planning Commission expresses concern about the exemption of the Port of New Orleans from the Coastal Use Permitting Program. Specifically we are concerned about the environmental damages which have resulted from the Mississippi River Gulf Outlet. The Commission expresses a desire to be included in the planning processes for the Port of New Orleans in order to promote a balance between conflicting interests and competitive uses and to provide mitigation for the problems of marsh erosion and salt water intrusion.

Response

The St. Bernard Planning Commission will be included in the planning process to create a special area for the Port of New Orleans. Any special area program for the Port of New Orleans shall contain guidelines for mitigating damages created by the MRGO and for limiting salt water intrusion. It should also be noted that Section 213.13 A of Act 361 provides that Deepwater Port activities shall be consistent to the maximum extent practicable with the State Program and affected approved local programs.

17) Vermilion Parish Police Jury (Morvant - 10/29/79)

Note: These comments were also presented at the Nov. 1, 1979, hearing in Abbeville by Richard Minville.

a) Comment

The rules and procedures for coastal use permits, contained in Appendix cl, are appropriate and feasible for ensuring compliance with the goals and objectives the program. The following specific comments are provided with regard to these rules.

Response

No response necessary. Thank you for your review.

b) Comment

Appendix cl, Part III D (3) states that the local permit agent is responsible for forwarding a complete application within two days, but the time between when the application is submitted and when it is accepted as a complete application may be greater than two days. The word "complete" should be inserted prior to "applications" on the first line of text in Part III E(1) and prior to "applications" in Part VI A(2) and in Part VI B(1).

Response

Comment accepted. The relevant section of the procedural rules in Appendix cl have been revised by inserting "apparently complete."

c) Comment

Parts III D(4), III F(2) and III E(3) need to be revised to clarify the amount of time that persons have to request a public hearing, following public notice of a permit and the point at which DOTD will decide whether to hold such a hearing.

Response

Any person may request a hearing within the 25-day public comment period on permit applications. CMS/DNR will decide whether to hold a hearing as soon as possible after the close of the public comment period. See revised procedural rules in Appendix c1, Part III F(2).

d) Comment

Part III F. concerning the discretionary determination of whether to hold a public hearing in response to a written request should be reworded so that a public hearing will be mandatory if requested by a reasonable specified number of interested persons. If not, the last sentence of (3) should be deleted, because failure of the Administrator or local government to hold a hearing on an application should be appealable.

Response

Public hearings will be appropriate when there is controversy over a proposed use. A number of requests for a public hearing would be an indication of controversy. Consequently, an automatic hearing upon receipt of a certain number of requests is not necessary.

Failure to hold a hearing may not be appealed to the Coastal Commissioner, but if an appeal is available on different grounds, the issue may be raised in that proceeding. In addition, the provisions of the Louisiana Administrative Procedures Act apply in this situation. Under the APA, immediate appeal from intermediate agency decisions of this nature is permitted in certain circumstances.--Please see revised rules in Appendix c1 Part III F(3).

e) Comment

Part III G(1) is not clear as to how the 30 day period will be calculated i.e., will the 30 day period recommence after the interrupted interval or will it continue from initial date excluding the interruption interval?

Response

A new 30-day period will begin after the interruption.

f) Comment

Section (2) of Part III H. Decision of Permits, should include a 30 day comment period when it is the intention of the Administrator to deny a permit. Such an opportunity for input by the applicant, the local governing body and authorities, as well as the general public would lessen the number of appeal requests.

Response

The existing 25-day public comment period in Section III E(3) will apply to all permit applications, regardless of the ultimate disposition of the application. During this comment period, interested parties have ample opportunity to recommend denial or issuance of the permit. A further comment period would be inappropriate in light of the existing opportunity for public input and the delays in permit processing which would occur.

g) Comment

Part II H should be expanded to provide for circumstances where the State Administrator decides that the local level decision concerning the need to obtain a permit is incorrect and that a permit is not needed, and the need for the local level to notify the State Administrator of proposed uses for which it has determined that a permit is not necessary.

Response

Only the Administrator may determine that a coastal use permit is not required. See part VII C of the revised rules in Appendix cl. The local government will be notified of the Administrator's decision.

h) Comment

In Part IV B(3), a specific time period should be inserted in place of "within a reasonable period".

Response

The period has been changed to 30 days. See revised rules in Appendix cl.

i) Comment

In Part V B(1), general permits, there should be a specific time limit for the issuance by the Administrator of a written authorization for work.

Response

A 30 day time limit has been provided. See revised rules in Appendix c1.

j) Comment

Subsections A(3) and B(1) of Part VI, dealing with the determination of whether a use is of state or local concern, should require the Administrator to forward to the local government written presentation of reasons either for a decision to reverse a local government's initial determination or an initial decision by CMS, when the use is in an area where the local program is proposed and not approved.

Response

A written determination will be given to local governments with approved programs. See revised rules in Appendix c1. It is not necessary, however, to send such determinations to local governments without approved programs because they will not issue permits until their programs are approved.

k) Comment

The criteria for determining state and local uses in subsection C(1) of Part VI, is too inclusive and may be interpreted more strictly than is intended or desirable.

Response

CMS and OCZM believe that the criteria accurately implement the provisions of Act 361. If experience shows that the rules are being interpreted too strictly, revisions to the rules will be considered.

l) Comment

Subsection D(1) of Part VI concerning local government appeals to the coastal commission on use determinations should be revised to mesh with the regularly scheduled business meetings of the local government. The first sentence could be changed to read: "... filed within ten (10) days of the notice to the local government or at the next regularly scheduled meeting of the local government body, if held later than said ten (10) days.)"

Response

The time frame for appeals has been extended to fifteen days in response to this comment. See revised rules in Appendix c1, Part IV D(1).

m) Comment

We believe that the Rules and Procedures for the Development, Approval, Modification, and Periodic Review of Local Coastal Management Programs, contained in Appendix c2, are generally of sufficient detail and clarity to enable the parish to develop its local program in accordance with the given provisions. It is also felt, that these requirements and procedures are feasible and are in the interests of ensuring compliance with the policies and objectives of Act 361.

Response

No response necessary.

n) Comment

Part IV of Appendix c2 should, however, be revised to provide for a 30 day public comment period prior to a decision by the state Administrator to approve or disapprove a local program.

Response

Section B of Part IV of Appendix c2 allows up to 90 days of public reviews before the Administrator must decide on approval of local programs. In addition, public hearings will be held after public notice has been given and before the Administrator makes a decision (see Appendix c2, Part III H(2)). An additional comment period is not necessary.

o) Comment

The revisions to the Coastal Use Guidelines have been of an advantageous nature, resulting in upgraded performance standards for use in local plan development and permit reviews.

Response

No response necessary.

18) City of New Orleans, Office of the Mayor (Mortal - 10/29/79)

Comment

Mr. Morial, Mayor of the City of New Orleans, supports the efforts of the Louisiana DOTD in their goal to implement the LCRP. He also urges the Office of Coastal Zone Management to promptly approve the program and is supportive of the goals of the Coastal Zone Management Act.

Response

No response necessary. Thank you for your comment.

19) Lafourche - Terrebonne Soil and Water Conservation District (Harang - 10/29/79)

Comment

The Lafourche - Terrebonne Soil and Water Conservation District does not support the LCRP/DEIS for the following reasons:

1. The description of the Natural Environment, Chapter 1, should include description of the amount of agricultural land that is classified as prime farmland.
2. The following item should be added to the list of adverse impacts in guideline 1.7:
Conversion of important farmland and forestlands to other uses that preclude continued production of agricultural and timber products.
3. The first two statements in guideline 6.1, page 58, need revisions. Agriculture is also a very important use that is necessary to provide adequate economic growth and development. This guideline is written to encourage development on good agricultural land.

4. We are deeply concerned for the retention of agricultural lands in the coastal zone to insure continued production of food and fiber and maintain the agriculture economy of the area. Act 361, Sec. 213.15, clearly exempts agriculture, forestry, and aquacultural activities that must be allowed for continued production. The exemption included maintenance and improvement of farm drainage systems, maintenance of on-farm levees and land grading.

Response

1. The discussion of Agriculture under c) Renewable Resources in Chapter I has been expanded to reflect this comment. See revised text in Chapter I.
- 2 & 3. See response to comment 3(e).
4. The exemption for agriculture, forestry and aquaculture activities includes those practices necessary for continued production, such as maintenance and improvement of farm drainage systems, maintenance of on-farm levees and land grading.

20) Terrebonne Parish Police Jury (Landry - 11/9/79)

Comment

Due to a lack of sufficient notice for the public hearing held in Houma and the fact that it was held on Halloween night, the hearing was sparsely attended. Another hearing should be held on the CZM draft in Houma.

Response

OCZM apologizes for any inconvenience that may have arisen from holding the hearings in Houma on Halloween night. However, it should be noted that at least fifteen days notice was given prior to the hearings held by OCZM, and no comments were received prior to the hearing that the scheduling was inconvenient.

21) Amerada Hess Corporation (Baker - 11/9/79)

Comment

Amerada Hess Corporation therefore endorses and fully supports the statements presented by the Mid-Continent Oil and Gas Association on the LCFP DEIS.

Response

See responses to comments 40 and 41.

22) Amoco Production Company (Adams - 11/9/79)

a) Comment

We support and endorse the oral and written comments and position presented by the Mid-Continent Oil ~ Gas Association at the October 30, 1979, hearing in New Orleans.

Response

See responses to comments 40 and 41.

b) Comment

In order to provide affirmative language limiting the program permitting standards to those which are economically feasible, we suggest the following additional guideline:

Guideline 1.11 "These guidelines are not intended to nor shall they be interpreted so as to require performance standards which are not economically feasible."

Response

Economic feasibility will be a factor in the decision on whether feasible alternatives exist to a proposed project under guidelines 1.6 and 1.8. See also Generic Response B.

c) Comment

As noted in the Mid-Continent statement, the language on page 95 of the DEIS concerning the review of OC/DNR in lieu permits by DOTD is contrary to the specific intent and language of Act 361.

Response

See Generic Response G.

d) Comment

The DEIS represents a systematic effort to restrict and exclude oil and gas operations, contrary to the statutory requirement for encouragement of multiple uses. For example, the discussion of the national interest in Chapter VI, simply does not place the emphasis upon oil and gas production facilities required by the federal and state statutes. The tenor of the entire chapter is to permit reluctantly oil and gas operation under severe constraints rather than encouraging such operation as we believe is required by the CZAR Act. An entirely new approach is required if the goals are to be attained.

Response

See Generic Responses A and B.

23) Atlantic Richfield Company (Livaudais - 11/27/79)

a) Comment

Atlantic Richfield Company is supportive of the comments presented by Mid Continent Oil and Gas Association on October 30, 1979, at the New Orleans hearings.

Response

See responses to comments 40 and 41.

b) Comment

We offer the following suggestions regarding the guidelines for oil and gas and other mineral activities:

1. Guideline 10.7, concerning the location of drilling supplies and equipment, is unclear. The overall purpose of the guideline should be stated and what is meant by the term "well site" should be defined.

2. Guideline 10.9, concerning design and construction standards, seems far too restrictive with the phrase, "...to withstand all expectable adverse conditions." We suggest the term, "reasonable adverse conditions," be used to reflect currently used and more practical standards.

3. Guideline 10.13 covers the restoration of exploration and production sites. The phrase, "...restored as near as practical to their original condition... to the maximum extent practicable" does not consider the economic limits that may be encountered. We suggest that this guideline be modified to ensure that the restoration considers these limits.

4. The definition of "best practical techniques" used repeatedly throughout the guidelines, does not specifically consider the economics of methods or techniques. We suggest that the last sentence be changed to read, "...which are feasible, practical, and economical for utilization."

Response

1. The purpose of guideline 10.7 is to minimize traffic on and damages to wetlands from drilling and production operations by keeping activities within the confines of the drilling site. The well site would be that area enclosed by ring levees or the smallest area practical for carrying out the drilling operation, including the route of access (board road, canal, etc.), associated storage facilities, mud pits, housing facilities, the rig itself, and needed equipment.

2. Guideline 10.9 provides for higher standards in order to assure that facilities be designed and constructed to withstand expectable conditions, such as 125 mile per hour hurricanes, 100 year floods and reasonably anticipatable accidents. The best practical techniques standard provides for economic reasonableness.

3. Both the term "practicable" and "maximum extent practicable" incorporate economic standards and consideration of practicability.

4. The term "best practical techniques," as defined, states that the methods are those which are "feasible and practical," thus incorporating economic considerations.

c) Comment

Act 361 does not provide for individual permit reviews of OC/DNR "in lieu" permits by DOTD as is contemplated on pages 98 and 99 of the DEIS.

Response

See Generic Response G.

c) Comment

Oil and gas reserves should be added to the list of "Resources in Which There a National Interest" on page 118 of the DEIS.

Response

According to 15 C.F.R. §923.52, the consideration of national interests in the planning and siting of facilities for national defense and aerospace, energy production and transmission, recreation, and transportation is required. The LCRP has recognized the planning and siting of these facilities as having national interest. In recognizing the national interest in facilities for energy production and transmission, the LCRP recognizes the national interest in oil and gas rigs, storage, distribution and transmission facilities. It is therefore redundant to list oil and gas as a resource in which there is a national interest.

24) The Chamber of Commerce - New Orleans and The River Region (LeBlanc - 10/10/79)

Comment

The Chamber of Commerce/New Orleans and the River Region (Chamber) which represents 2,500 business firms in seven southeast Louisiana parishes, and which has followed the development of the LCRP since the legislative proceedings for Act 361, continues to have major objections to the program as presented in the DEIS on the grounds that it exceeds the statutory authority set forth in Act 361 and does not meet the requirements of the CZMA or OCZM regulations.

Response

See specific comments and responses below.

b) Comment

The Chamber believes that it and the general public have been deprived effective participation in the development of the LCRP. It is noted that the Chamber has provided detailed comments to both the CMS staff and the Louisiana Coastal Commission on three occasions: a statement submitted April 17, 1979, in response to the State Hearing Draft; a letter to Mr. Jim Owens, Chairman of the Louisiana Coastal Commission dated June 8, 1979, and a letter to Mr. Frank Craig, of the CMS staff, dated June 15, 1979. All of the above comments identified areas where the LCRP either exceeded the statutory authorization of Act 361, failed to satisfy the requirements of the CZMA or OCZM regulation Or recommended specific amendments to the guidelines. In every case, virtually all of the comments and amendments proposed by the Chamber, and by many other interested parties, were ignored by the CMS staff.

Thus, the LCRP fails to have satisfied Sections 303(d) and 306(c)(1) of the CZM Act, and §923.1(c)(6), §923.3(a), §923.50(b)(c) and (d), and 5923.55(a) and (b) of CZM regulations which require full public participation in the development of coastal zone management programs which are to be submitted for Section 306 approval. This failure, the Chamber submits, bars approval of the LCRP, as presently proposed.

Response

The LCRP has met the public participation requirements for Section 306 approval. The CZMA requires States to encourage public participation and to provide an opportunity for full public participation in the development of a management

program. See subsections 303(d) and 306(c)(1) of the CZMA and 15 C.F.R. §923.3. The State and federal hearings and comment periods on the LCRP have provided the required opportunity for participation. OCZM regulations require the State to follow an open process in developing a program which involves providing information to and considering the interests of the public. See 15 C.F.R. §923.1(c)(6). Copies of the Hearing Draft and the DEIS have been made available and mailed to interested parties. The comments received have been considered by CMS staff and OCZM, but there is no requirement that all comments be acted upon. In fact, such a requirement would be unworkable, because often different commentators advocate diametrically opposed actions. Instead, OCZM regulations call for a balancing of diverse interests. See 15 C.F.R. 5923.50. This balancing process has been followed in the development of the LCRP. Finally, CMS and OCZM have responded to public comments through the NEPA process, thus meeting the requirements of 15 C.F.R. §923.55.

C) Comment

As the Chamber has set forth in its previous comments on the program, the LCRP as presently proposed can not be considered or accepted as legally enforceable because the provisions of the program on their face go far beyond the authority granted by Act 361. In this respect, the LCRP is patently invalid under state law, and does not provide the assurance of adequacy and enforceability required by Section 305(b)(4) and (6), 306(c)(1), (6), and (7), and 306(d) of the federal CZM Act, and §923.1(c)(2)(6), §923.3(a), §923.3(b)(3) Comment A], :923.11(b)(Q), §923.40(a), §923.41(a)(b), §923.42, §923.43(c), and §923.46(c) of OCZM regulations.

Response

CMS/DNR and OCZM disagree that the LCRP is beyond the scope of authority granted by the Act 361.

d) Comment

Sections 305(b)(1) and 304(1) of the CZAR Act, and §923.1(c)(4), §923.10, §923.30 and §923.31(a) of OCZM regulations, require an identification of those areas of the coastal zone which will be subject to the management program, and provide that the boundary shall extend inland only to the extent necessary to control shorelines the use of which have a direct and significant impact upon coastal waters. The LCRP fails to satisfy this requirement for such identification. The definition of the "coastal zone" set forth in §213.3(4) of Act 361, makes clear that not all of the lands and waters within the boundary are included within the areas of the "coastal zone" which will be subject to the program. The areas to be subject to the program are only ". . .the coastal waters and adjacent shorelands within the boundaries of the coastal zone established in §213.4, which are strongly influenced by each other, and in proximity to the shorelines, and uses of which have a direct and significant impact on coastal waters."

The LCRP also fails to include a "Request" procedure such as that recommended by the Chamber--by which interested parties could determine whether their land was included within the area to be subject to the program. In these respects the LCRP fails to satisfy the identification requirement for Section 306 program approval.

Response

See Generic Response E. The definition of "coastal zone" contained in Appendix c6 has been revised to incorporate the definition in §213.3(4) of Act 361. The request procedure for determining the applicability of the Program has been developed and is included in Appendix c1, Part VII.

e) Comment

The LCRP fails to satisfy the requirements of Section 303(b) of the CZM Act, and §923.3(a), and §923.3(b)(2) "Comment] of the CZAR Regulations, requiring that the LCRP recognize and contain adequate provision for continued population growth and economic development within the coastal zone, in that the program has established guidelines and definitions which reflect a bias against further development and seek to unreasonably restrict future development within the coastal zone to areas already developed. The Chamber feels that it is inappropriate, at the very least, to set forth such restrictions as goals and objectives of the program.

Whether development should occur within any given area should properly be a matter to be determined in the context of the overall permit process. This would allow due consideration for the purposes, costs, and benefits of each particular project, and would produce a site-specific decision which would truly reflect the public interest in each case. The Chamber specifically objects to guidelines 6.1 and 6.2 and the definition of "Development Levees," all of which reflect the above noted bias.

Response

See Generic Response A.

f) Comment

Sections 305 and 306 of the CZM Act, and §923.3(b)(4), §923.11(b)(2) [C], §923.20(b), and §923.31(a)(8) of OCZM regulations, require that the LCRP be sufficiently explicit and specific so that persons affected by the management program can determine what lands and uses are subject to management, and how the program will affect them. The LCRP wholly fails to satisfy this requirement in that it fails to sufficiently describe what lands within the boundary are subject to management as part of the coastal zone, and what uses may properly be exempt from the management program. The LCRP is also inadequate in its failure to include a "Request" procedure by which interested parties could determine the applicability of the program. Such a procedure was recommended by the Chamber and is required by §923.31(a)(8), but was rejected in the development of the LCRP.

Response

See response to comment 24(d).

9) Comment

The discussion of "Alternatives to the Proposed Action" in Part III of the DEIS, pp. 149-154, is inadequate. Alternatives are discussed only in terms of the effect of delay or denial of program approval. There is no discussion of the "no-action alternative"--i.e., the effect of continuing the present degree of regulations within the coastal zone--as required by Sections 102(c)(iii) of NEPA, and by §51500.2(e), 1501.2(e), 1502.14, 1502.14(d), 1505.2(b)

and 1508.25(b) of the new CEQ Regulations on Implementing National Environmental Policy Act Procedures, 40 C.F.R. §51500-1508, 43 C.F.R. 55990.

The discussion of alternatives also does not consider the effect of the major amendments and revisions to the LCRP recommended by the Chamber. These recommendations relate in many respects to the basic structure of the LCRP, and certainly represent an alternative form of program management which warrants discussion as an alternative to the LCRP, as presently proposed.

Response

See Generic Response H.

h) Comment

The discussion of "Environmental Consequences" in Part V, pp.161-181, of the DEIS is inadequate because of the failure to adequately consider the socioeconomic impacts and economic effects of the LCRP as required by Act 361 and NEPA. For example, the socio-economic impacts of the LCRP are generally described in only four short paragraphs on pages 164-165 of the DEIS. No attempt is made to quantify the extent of these impacts--in terms of the cost of permit denials or the added cost of construction and operation because of siting restrictions.

Response

See Generic Response H and the revised text of Part V.

i) Comment

The purported discussion of the "Potential Negative Impacts" of each guideline (pp. 172-179) reflects this same inadequacy. In each case the discussions are limited to a few short paragraphs. Although potential negative economic impacts, e.g., "increased planning and engineering costs of urban and industrial development", are noted - no effort is made to quantify the estimated increased costs or to set forth any further consideration of this impact.

Response

See Generic Response H and revised text of Part V.

25) Chevron U.S.A., Inc. (McGannon - 11/13/79)

Comment

Chevron, U.S.A., Inc. believes the coastal zone management program's goals should ensure the multiple use of coastal resources, and therefore supports the testimony of Mid-Continent Oil and Gas Association at the October 30, 1979, New Orleans public hearing.

Response

See responses to comments 40 and 41.

26) Cities Service Company (Fritschen - 11/8/79)

a) Comment

Cities Service Company, is supportive of the comments given by Mid-Continental Oil and Gas Association at the New Orleans public hearing on October 33, 1979. The proposed guidelines of the LCRP should be flexible and adopted as performance standards.

Response

See responses to comments 40 and 41.

27) Citizens for Safe Energy (Guncan - 10/30/79)

a) Comment

The Citizens for Safe Energy (CSE) believe that the siting of nuclear generating plants in or near the Louisiana coastal zone poses a serious risk to the mankind, wildlife and the vast natural resources of the area. While we support guideline 8.9 which prohibits the temporary or permanent disposal of radioactive wastes in the coastal zone, the coastal use guidelines should contain explicit and firmly enforced prohibitions against operating nuclear generating facilities within the coastal zone. Since the NRC now considers that a nuclear accident is likely to contaminate a 10 mile radius of a nuclear power plant, perhaps such plants should not be allowed to operate within lo miles of the coastal zone.

Response

See response to comment 74.

23) Conoco, Inc. (Ellis - 11/8/79)

a) Comment

The overall tone of the draft document concerns itself primarily with the physical environment of the area. The environment to be considered must also include the economy and growth aspects of the coastal zone. Moreover, the CZMA as amended, calls for "multiple use" programs so that the greatest return to the affected State and the Nation as a whole can be realized. In this regard we support the testimony of the Mid-Continent Oil and Gas Association present at the October 30, 1979, public hearing in New Orleans.

Response

See response to comments 40 and 41.

b) Comment

During the period that the oil and gas industry has operated in the coastal areas of Louisiana, the productivity of the coastal zone wetlands has not been impaired for other multiple uses. Rather, the fishing yield in numbers of fish, types of fish, and sizes of fish has improved since the oil industry initiated operations in the coastal and offshore areas. If, as claimed by environmentalists, the offshore fish yield is directly dependent upon the productivity of the adjacent wetlands, it can be concluded that oil and gas production have caused no real or lasting harm to the area. Furthermore, we maintain that, while the water quality may be no better because of the presence of our operations, it is certainly not appreciably worse. Water recreation safety has improved because of better communication and the presence of oil and gas workers in coastal areas.

Response

Changes in commercial and recreational fishing are due to many factors, including new fishing techniques leading to larger catches and changes in species fished. It does not necessarily follow that because fish yield has improved, the oil and gas industries have caused no real or lasting harm to the area. Productivity of wetlands is related to many natural and man-induced factors. The same is true of water quality. Safety in coastal and offshore areas has improved due to advancements in communications systems, weather predictability, and increases of people and facilities in these areas.

c) Comment

Since our industry has proven itself capable of living with the delicate coastal ecosystem with no harm, we recommend that the LCRP/FEIS, take more cognizance of the existing multiple uses in the area and be less concerned with only the physical environment.

Response

See Generic Response A.

29) Ecology Center of Louisiana, Inc. (Morein - 10/30/79)

a) Comment

The Program is so seriously flawed as to lead to grave doubts about its potential for accomplishing its goals. The program is aimed at answering the question "How much can we get out of the coastal area before it is useless?", rather than the more relevant question "How can we best protect the coastal area?" The DEIS does not sufficiently analyze the consequences of this approach in terms of the program's impact and effectiveness.

Response

See Generic Response A. This DEIS describes the environmental, social and economic costs and benefits of the LCRP's regulatory and enhancement provisions. OCZM, in turn, has determined that the LCRP meets the goals of both the CZMA and Act 361, and that the implementation of such a program will have a positive net environmental impact.

b) Comment

The program and the DEIS fail to adequately assess the serious problems caused by the erosion of wetlands.

Response

The problem of erosion of wetlands is recognized both in the DEIS in the description of resource problems in Chapter 1, the substantive policies of the guidelines, and Appendix j. Guideline 1.7(s) lists erosion as one of the adverse impacts to be avoided by all uses and activities. Guidelines 3.10 and 4.6 require that linear facilities and soil disposal respectively be carried out using the best practicable techniques to reduce erosion. Guideline 5.9 states that jetties, groins, breakwaters and similar structures must be constructed to avoid to the maximum extent practicable downstream land loss and erosion. Guideline 9.3 requires that erosion from agricultural lands be minimized through the best practicable techniques. The enhancement programs to be undertaken during the first year of implementation will directly address the problems of erosion and loss.

c) Comment

The program should include planning for the bureaucracy that will deal with the conflicts that will arise as well as act as a clearinghouse for federal and state input into the local programs. Therefore, some explanation of how various state agencies will coordinate should be included in the program. For example, the program must be coordinated with the statewide water quality management plan.

Response

See Generic Response G.

d) Comment

The program should be worded in as forthright and direct a fashion as possible in order to serve as a guide to the public as to which activities should or should not be encouraged along the coast - instead the guidelines are too complex and technical, thereby causing confusion rather than elucidation.

Response

See Generic Responses A and B.

e) Comment

The guidelines leave too much discretionary power in the hands of the Coasts Commission, and this will make it hard to determine what interpretation will be given to various guidelines in any one circumstance.

Response

See Generic Responses A and B.

f) Comment

The program has been railroaded through with little or no meaningful public participation..

Response

The CZMA and Act 361 require the State to provide an opportunity for full participation in the development of the program. The LCRP summarizes its public participation and hearing efforts in Appendix 9. There have been numerous opportunities for public input into the development of this program, including the legislative process, public hearings and meetings, and the Federal approval process.

30) Ecology Center of Louisiana Inc. (Morein - 11/12/79)

a) Comment

The DEIS ignores the fact that the program lacks substantial means for dealing with the State's enormous problem of shoreline erosion.

Response

See response to comment 29(b).

b) Comment

The DEIS does not address the manner in which the various state agencies will coordinate their efforts in the LCRP.

Response

See Generic Response G.

c) Comment

The DEIS fails to evaluate the consequences of transferring control of the coastal zone to the State when the State has an incomplete plan.

Response

The State of Louisiana has developed a coastal resources program which meets the requirements of the CZMA. Approval of a state management program does not result in a transfer of federal authority to the State. Federal agencies retain their independent federal authority.

31) Environmental Defense Fund (Tripp - 12/13/79)

a) Comment

It is not clear to us what the overall objective of the Coastal Zone Management Program is in the State of Louisiana. What is the program trying to accomplish? We stated in our comments on the Hearing Draft that the over all objective should be significant abatement of land loss. Indeed, the long term objective should be to restore the Louisiana coastal zone as an expanding, not a contracting, system.

Although we applaud the statement of general objectives found in Chapter VII concerning minimization of habitat loss, these objectives are rather vague. Furthermore, it is not clear how the objectives are to affect application of the guidelines or be used in measuring the effectiveness of implementation of the program and enforcement of the guidelines. A more concrete objective would be a phased reduction of the rate of land

loss by increments of one to two square miles per year so that over an 8 to 10 year period restoration could become feasible.

Although the guidelines leave a tremendous amount of discretion to the administrator of the program (see in particular guideline 1.8, under which almost any conceivable proposed activity could be authorized), ultimately the effectiveness of these guidelines and their implementation must be measured in terms of their overall impact on coastal land loss. If the program makes no difference in terms of meeting the basic long term resource needs of the coastal zone, reflected in the program should be discontinued. Although we find the discussion of the impacts of the programs, policies and guidelines to be interesting, starting at page 170, the question is what their overall impact will be in the attainment of stated objectives.

In terms of the effectiveness of the overall program in moving towards the proper objective as we have identified it -- abatement of land loss -- we strongly support the designation of special areas of rapid delta growth and preservation of wetland areas suitable for enhancement by freshwater diversion as described at page 111 of the DEIS. We also approve recognition at page 115 of the DEIS that other national interests, such as those in natural resource conservation and protection, will be involved in decisions regarding the siting of the identified national interest facilities.

Response

Chapters V and VII have been revised to provide more information concerning the objectives and specific tasks that Louisiana is seeking to undertake during the first year of program implementation. These include development of a freshwater diversion plan and a barrier island protection program, both of which address the need to reduce the loss of wetlands and other habitat. the development of a computerized means of monitoring the transient state of the coastal zone is another project (see Chapter VII). While these projects should in the long run reduce land loss, it would be precipitous at this time to set specific annual target figures for reduction in land loss until the feasibility of such enhancement programs are determined. This may take as long as two to three years. OCZM agrees that the program must, in the long run, "make a difference" or be revised or discontinued. OCZM will use the Section 312 annual evaluation (see Generic Response I) and the review of work products to ensure that progress is being made.

b) Comment

In order to determine the overall impact of the program on coastal resources, it is necessary to look at the cumulative and secondary impacts of program guide lines and other policies. Perhaps the weakest aspect of the guidelines and other program elements is the lack of attention to cumulative and secondary impacts. An effective methodology for analyzing overall cumulative and secondary impacts is desperately needed. Individual permit review under the proposed CZM guidelines, or the 303(b) guidelines, is almost meaningless. It is not at all clear that the coastal zone management program as described in the DEIS has available to it such a methodology, knows how to use it in terms of the implementation of the guidelines or is committed to the development and implementation of such a methodology.

Response

See Generic Response F regarding cumulative impacts. It is somewhat of an over statement to say that individual permit reviews are "almost meaningless." While the cumulative impact of smaller projects is very important, the individual review of both major and minor projects is the principal means of enforcing the program.

c) Comment

We are disturbed by the statement that the guidelines have been written using a "performance standards" approach, de-emphasizing the alternative approach of designating which uses are permissible in different geographic areas of the coast. Although this approach may be an option which may be utilized by local governments (page 47 of the DENS), the excuse for not developing such a State level program, namely, that it would not allow sufficient possibility for future decision making at the State level, seems to be inappropriate in terms of both the mandate of Section 213.8(C)(2) of Act 361 and the discussion of special corridor areas at page 112 of Chapter V. The fact is that development must be concentrated in areas which have already been developed and in special corridor areas if the objective of reducing land loss is to be attained.

Response

The approach used in the guidelines and coastal use permit program meets the requirements of the CZMA and Section 213.8(C)(2) of Act 361. The guidelines and the enhancement program e.g., freshwater diversion planning provide for the objective discussed in the last sentence. See also Generic Response A.

d) Comment

At page 17, one of the "benefits" of the program is alleged to be re-establishment of State and local leadership for management of coastal resources. It is not at all clear from the DEIS why this is a benefit, unless deference to traditional textbooks of federalist notions is always a benefit. State and local leadership can and should be a benefit depending on the quality of that leadership and the direction of its policies.

Response

OCZM believes that approval of the LCRP will provide benefits to the nation, the State, and local governments.

e) Comment

In deciding whether to approve, delay or disapprove the Louisiana CZM program, OCZM must determine if the proposed guidelines are sufficiently clear to assure effective enforcement. In terms of clarity and a sense of purpose, the DEIS guidelines are certainly a vast improvement over the April Hearing Draft hodge podge. Their clarity and meaning could be vastly improved if they were related to a clear set of objectives.

The key problem with the guidelines on paper now is guideline 1.8, the basic decision rule. Even if the other guidelines have sufficient clarity and purpose, guideline 1.8 introduces an enormous amount, indeed, almost unlimited, discretion in the decision process. Thus, the clarity of the guidelines as a whole must be judged by this one rule since it provides an exception to all of the other guidelines. Guideline 1.8 could certainly be used as an enormous

loophole, providing decision makers and applicants with an approved way of circumventing some of the stricter requirements of the other guidelines. No matter how reasonable the other guidelines, their effectiveness can be essentially nullified by this one decision rule.

We fail to understand in this respect why (a), (b), and (c) under guideline 1.8 are stated in the disjunctive rather than conjunctive. The guideline might provide an effective standard if they were conjunctive. For example, it is unclear to us, in terms of the resource needs as stated in the CEIS and the objectives of the program, not to mention Act 361 itself, why an activity which may have significant public benefits but which would also destroy significant amounts of wetlands should be allowed if the proposed use is not coastal water dependent. Because guideline 1.8 is the finch pin, its vagueness, which provides no meaningful standard of administrative or judicial review, alone renders the entire set of guidelines defective.

Response

See Generic Responses A and B.

f) Comment

In terms of Section 306(d)(2) of the CZMA, which concerns the ability of state CZMP to acquire lands, we consider guideline 1.4 to be totally inappropriate.

Response

OCSM does not understand the meaning of this comment. Guideline 1.4 states that, "these guidelines are not intended, nor shall they be interpreted, so as to result in an involuntary acquisition or taking of property." If the guidelines were to be interpreted or intended in any other way, they would clearly be unconstitutional.

g) Comment

The qualifiers (1), (2), and (3) under guideline 6.1(b) should be conjunctive rather than disjunctive. The word "vicinity" in (3) is so vague that the tighter restrictions under (a) and (b)(1) and (2) could be totally nullified. Otherwise, the guidelines for surface alterations, with this major exception, appear to be considerably more intelligible than they were in earlier drafts.

Response

OCZM disagrees that the above factors should be conjunctive; to require this would decrease flexibility to assure a balanced approach. It should be noted that the development discussed in 6.1 must "be consistent with the other guidelines." In other words, guideline 6.1 does not override the other guidelines.

h) Comment

It is not clear to us what happened to the so-called voluntary forestry guidelines. Since alteration of coastal wetland forests can play such havoc with Coastal resources, guidelines for use of forest resources, in particular relating to conversion of that resource, are essential.

Response

See response 15p. It should be noted that the guidelines concerning wetlands would apply to wetland forest areas.

i) Comment

At page 153 of the DEIS, we assume that Section 213.15(3) means that forest lands will be exempt from the program only if they continue to be used for silvicultural purposes. If they are converted to other uses, such as agricultural, residential or industrial uses, we assume that they will not be exempt and that permits will be required in accordance with the guidelines.

Response

The assumption is correct.

Comment

In light of the program weaknesses noted above, effective program implementation is crucial. In our view, effective implementation is impossible in Louisiana without active participation by citizen groups and other members of the public in the program. It is particularly important that members of the public, including organized citizen, conservation, and other groups, be able to participate in the public notice comment, hearing and appellate processes. However, based on the description of the coastal use permit process at page 92 of the DEIS, it is not clear how interested members of the public, including organized public interest groups, will be given an opportunity to comment or, public notices and to request hearings.

Furthermore, page 167 of the DEIS states that "the program calls for continued substantial citizen and interest group participation in decisions about the allocation of coastal resources. This will facilitate accountable and representative government decision making." Notwithstanding this loud clarion call, the DEIS does not describe or explain how the program in fact does this. Platitudes about continued substantial citizen and interest group participation are meaningless. The question is whether such groups have the right and resources to comment and to request hearings. In view of the status of such groups in Louisiana today and the deficiencies of their funding sources, such participation will not be effective without provision for intervener funding.

In any case, the description of citizen participation in the EIS at page 161 should either be deleted, except in terms of applauding historic involvement, or it should include a description as to how this participation will continue.

Response

The opportunities for public review and comment concerning all aspects of the LCRP, including the coastal permit process, local program development and approval, appeals to the Coastal Commission, and the designation of special management areas are clearly described in the procedural rules in Appendix. The provision for intervener funding, however, is clearly not envisioned in either the CZMA or Act 361.

k) Comment

If steps are taken to provide for effective implementation, adequate opportunities for public participation, including provision for intervenor funding in the hearing, and appellate or subsequent judicial review process must be included.

In addition, a statement of objectives must be written in a manner that will provide an effective measure of the effectiveness of the program, as we have suggested. If these steps are taken, the overall impacts of approval of the program might be beneficial. Otherwise, we fear that approval of the program will weaken existing Clean Water Act programs and delude the public and decision makers into believing that the serious resource problems of the coastal zone of Louisiana are being addressed.

Response

We disagree that approval of the LCRP will weaken existing Clean Water Act programs. The federal consistency provisions of the CZMA do not provide a legal basis for the argument that such approval will in any way weaken the existing implementation of federal programs. See also previous response, concerning program monitoring and 312 evaluations.

32) Exxon Company U.S.A. (Garner - 11/7179)

Comment

Exxon Company, U.S.A., is supportive of a multiple use concept of coastal resource management and supports the statement of the Mid-Continent Oil and Gas Association made at the October 30, 1979, hearing in New Orleans. The LCRP fails to establish a reasonable balance between energy needs and environmental protection. A program structured on the EIS could unnecessarily restrict needed energy development.

Response

See responses to comments 40 and 41.

33) Fund for Animals (Rosenthal - 10/30/79)

a) Comment

The DEIS does not fulfill the requirements of NEPA because it is too vague and general.

Response

See Generic Response H.

b) Comment

It is impossible to evaluate the effect of the guidelines on the coastal zone. Given Louisiana politics, the only predictability in this document is that this document will be used as justification for the rape of Louisiana's coastal zone. The "weasel words" of "best practical techniques", and "maximum extent practicable" are so vague that they will end in considerable litigation and will set up the director of this program as a virtual dictator. OCZM's approval of this Program will only provide the justification for receipt of the CEIP funds and for the ultimate destruction of Louisiana's coastal zone.

Response

OCZM disagrees with the contention that implementation of the LCRP will have these effects. The specific contention that the program will result in the destruction of the Louisiana coastal zone is not supported by an analysis of the Coastal Use Guidelines, the various LCRP enhancement programs, e.g., development of the freshwater diversion program, and the fact that federal agency action must continue to review their permitting and project actions for consistency with federal policies concerning wetlands, floodplains, etc., even in cases where the State has approved a permit or project. See also Generic Responses A, B, and I.

c) Comment

Standing for appeal under the program is too limited in that the definition of "aggrieved person" is too narrow. Public interest groups would have no standing to appeal administrative decisions. This is in opposition to the CZMA.

Response

Standing to appeal a coastal use permit decision is broader than "aggrieved person: in that any person "adversely affected" may also appeal pursuant to 213.11 D. This language is normal for standing in appeals of administrative action. It assures that only those persons with a real interest in the matter can appeal and is the same standard by which standing is measured for purposes of NEPA.

34) Getty Oil Company - New Orleans, La. (Pierce - 11/6/79)

a) Comment

Getty Oil Company participated in the preparation of the analysis of the LCRP coordinated by the Louisiana Division of the Mid-Continent Oil and Gas Association and supports the conclusions therein.

Response

See responses to comments 40 and 41.

b) Comment

Oil, natural gas, sulphur and other minerals should be included in Table 2, Resources in Which There is a National Interest on p. 118.

Response

See response to comment 23(d).

c) Comment

The DEIS indicates a high priority for environmental protection but minimal regard for resource development. The Gulf coast is a viable ecology which is not in a delicate balance and does not require over-protection to the detriment of resource development. For example, studies show that during World War II, Gulf coast' beaches were entirely inundated with oil from sunken ships and that no permanent harm resulted of these spills. We therefore recommend that the program should be withdrawn and restructured in a manner which better balances concern for the environment and the need for increased energy sources.

Response

OCZM disagrees that the LCRP includes an inadequate consideration of resource development needs and that the program constitutes "overprotection." See also Generic Response A. OCZM also takes issue with the contention that oil spills cause little or no permanent harm to the environment, and notes further that the short term effects of such spills are a serious environmental hazard. While ongoing studies of the Amoco Cadiz spill off France may provide long term analyses of such phenomena, OCZM does not believe that any previous studies have accurately determined, through scientific means, the long term effects of such spills. It is, however, clear that major oil spills have had severe short term adverse impacts on the immediate marine environment, the fauna supported by that environment, and economic activities such as tourism, and further have resulted in significant public and private costs for clean-up. Litigation following the Torrey Canyon spill in 1967, for example, resulted in an out of court settlement of \$7.5 million for damages, with an additional \$15 million spent on clean-up costs. Although the social and economic costs of the Amoco Cadiz spill have not as yet been quantified, it is already known that severe environmental and economic effects, many of which may be of a long term nature, have occurred; e.g., over 200 oyster beds have been closed. Clean-up operations for the spill alone have cost approximately \$100 million.

35) Houma-Terrebonne Chamber of Commerce (Lathrop - 11/16/79)

Comment

The Houma-Terrebonne Chamber of Commerce is supportive of the State's interest in a multiple use planning mechanism for the management of coastal resources.

Response

No response necessary.

36) League of Women Voters (Herr - 10/30/79*)

a) Comment

The LCRP allows parishes to develop local programs without over-all growth programs limiting development in wetlands. The role of Regional Planning Commissions in providing regional coordination is also not recognized. The guidelines should be strengthened and require coordination between localities and the State.

Response

The LCRP is based on a performance standard approach of regulating activities in coastal wetlands. Regional planning commissions are not empowered to act under Act 361. Parishes may make use of these commissions in resolving multi-parish conflicts and resolving regional problems. Act 361 and the rules and regulations for Local Coastal Management Programs (Appendix c2) require coordination between state and local entities.

b) Comment

The multi-purpose use concepts provided for in the guidelines can have negative effects if they allow alteration of productive wetlands. The guidelines will only be as good as the parishes want them to be in that their desire for development will outweigh the need to preserve productive wetlands. For example, the New Orleans Advisory Committee's attempt to follow the proposed state guidelines showed that little attention was given to water quality or monitoring systems.

Response

Parishes that are not consistent with state law and regulations will be held in non-compliance. Alteration of productive wetlands will only be allowed if the proposed use is consistent with all relevant guidelines. Parishes will be monitored for compliance under the review process outlined in Appendix c2.

c) Comment

The problem of cumulative impacts is not adequately addressed in the guidelines, particularly with regard to the need for monitoring.

Response

See Generic Response F.

37) The Louisiana Forestry Association (Hughes - 11/8/79)

a) Comment

Agriculture, forestry and aquaculture activities are mentioned in Part III, pg. 153, Alternatives to the Proposed Action, and in Appendix cl, Part II A(l)(a), Activities Not Requiring Permits, in a manner which is consistent with Act 361.

Response

No response necessary.

b) Comment

Appendix cl, Part II G(l)(b) states that, in order for a permit exemption, the activity must be "consistent with good management practices for which the particular agricultural, forestry or aquacultural use to which the land has been put." While we agree with the philosophy of good management practices, we feel that to attempt regulation in a manner which conflicts with Section 913.15(A)(3) of Act 361 is unacceptable. This section should be changed to read as follows:

"The agriculture, aquaculture or forestry activity is determined to be exempt from the permit requirement of Section 404(f) of the 1977 Clean Water Act."

This will provide consistency with Section 404(f)(1)(A) of the Clean Water Act.

Response

The rules and procedures in Appendix cl, Part II G(1) have been revised to reflect this comment.

c) Comment

Appendix cl, Part II G(l)(c) is contrary to Louisiana Act 361, and should be altered to read as follows:

"Agriculture, forestry and aquaculture carried out in the coastal zone will be encouraged to comply with voluntary water quality control programs developed under the state 208 process."

Response

Part II G (l)(c) of Appendix 1 has been deleted to reflect this comment.

d) Comment

Appendix c1, Part II G(1)(d) is objectionable because it changes the intent of the agricultural, forestry and aquaculture exemption of Section 213.15(A)(3) of Act 361. If you change a type of agriculture, forestry or aquaculture use, such as a change of crops from cotton to sugar cane, your exemption would be voided. The only way that (d) can be consistent with the Act is to state that "the activity is not intended to, nor will it result in, changing the use to which the land has been consistently used for in the past, to another use."

Response

Comment accepted. See revised rules and procedures in Appendix cl, Part II G(1).

e) Comment

Appendix cl, Part II G (2) should be changed to read:

"The exemption includes but is not limited to normal agricultural, forestry and aquaculture activities such as plowing...."

Response

Comment accepted. See revised rules and procedures in Appendix cl, Part II G(2).

38) Louisiana Oyster Dealers and Growers Association (Pausina - 11/3/79)

a) Comment

The phrase "to the maximum extent practicable significant" in Guideline 1.7 implies that the program is striving to avoid only major or gross adverse impacts and allowing or condoning those impacts of a lesser degree. Judgement situations as to what is major and what is minor are not in the best interest of the purposes of the CZMA or the LCRP. We suggest the use of either the Modifier phrase "maximum extent practicable" or "significant" but not both.

Response

Within the context of guideline 1.7, "significant" means meaningful. There fore, even minor adverse impacts will be addressed by this guideline.

b) Comment

Guideline 4.4 should be revised to reflect the fact that spoil deposited up current or on a higher elevation than an oyster reef can, and many times does, move and cause harm as great as spoil placed directly on a reef. The following language should be included in the guideline; "Spoil shall not be disposed.... known oyster reefs or in such a manner as to be carried onto an oyster reef.... in areas of submerged vegetation."

Response

Water circulation and possible movements of dredge spoil will be considered under guideline 4.6. When deposition is shown to be necessary anywhere near an oyster reef, appropriate conditions will be imposed before a permit is issued.

c) Comment

It is unclear whether the definition of known oyster reefs includes "public seed grounds" and "seed ground reservations" - areas which are critical to the oyster industry. If these areas are included in "oyster producing areas of record" it should be stated specifically, if they are not included, they should be.

Response

Known oyster reefs include all areas which are important to oyster production including seed beds. The NMFS and DWF will be consulted in identifying these areas. Public participation of oystermen of the area will also be included in the decision.

d) Comment

The word "known" in the phrase "known oyster reefs" leaves no room for human error, e.g., there may be a reef in existence that is not properly recorded. The definition should be made less definite to allow for human error and lags in the administrative process.

Response

The only persons with knowledge of an unrecorded oyster reef are probably the oystermen who work it. Participation on their part in the form of a response to public notices will help to prevent "human error" on the part of administrative personnel. A minimum of 30 days will be required to obtain a permit. This should be sufficient time to take up any lags in the administrative process.

e) Comment

The use of the modifier "maximum extent practicable" in guideline 4.4 is totally unacceptable and must be rewritten. We believe that there is always an alternative means of disposing of spoil so that it would not be placed on an oyster reef.

Response

The multi-use nature of the LCRP requires that the "maximum extent practicable" clause be included in this guideline. The CMS is aware of the unique habitat that oyster reefs provide and of their economic importance. Dredge disposal on

an oyster reef would be permitted only under the most extreme circumstances and all aspects of guideline 1.8 would have to be met.

f) Comment

A guideline should be added which would state that oil and gas exploration, production, and refining facilities should not be placed on an oyster reef. In cases where it is not practicable to locate such a facility anywhere but on an oyster reef, the program should require replacement of the reef.

Response

Guidelines 10.1 and 10.3 address this comment. Mitigation of loss of oyster reefs is not required by law although it would be considered in this case. See Generic Response D.

9) Comment

The proposal to place artificial barrier islands seaward of eroding shorelines (p.110) could result in a heavy silt loads which could harm oyster beds. Such barrier islands could also attract people, resulting in pollution which could adversely affects oysters.

Response

All hydrologic and biological effects of artificial barrier islands, as well as the secondary impacts will be included in the feasibility studies and environmental assessments of these structures.

h) Comment

The DWF - CMS/DOTD Memorandum of Understanding mentioned on page 98 and 99 is confusing. DWF has the expertise to review permit applications impacting oyster grounds and they should be given that responsibility, not CMS/DOTD.

Response

As explained in Chapter IV of the FEIS, it has been determined that an MOU between DWF and CMS/DNR is not necessary to implement the in lieu requirements of Act 361. Although DWF has statutory authority over oysters, including the granting oyster leases, its statutory authority does not extend to the issuance of permits for the leasing, seeding, planting, harvesting or marking of oyster bedding grounds. CMS/DNR will take into consideration all DWF comments on coastal permit decisions.

39) The Louisiana Wildlife Federation, Inc. (Veillon - 10/30/79)

a) Comment

While DOTD is to be commended for its efforts in moving towards a CZM Program for Louisiana, the guidelines are vague and in need of more clarity.

Response

See Generic Responses A and B.

b) Comment

Guidelines 2 through 10 lack overall general policy statements resulting in an absence of a clear statement concerning the renewable resource policies of

the program. Such a policy should set a limit on wetland destruction and require mitigation.

Response

See Generic Responses A and B.

c) Comment

The phrase "to the maximum extent practicable" leaves too much discretion to the Administrator and should be replaced by the phrase, "the best available technology in order to avoid". Criteria for defining or establishing what constitutes the best available technology should be made with references to John Clark's Coastal Ecosystem Management: A Technical Manual for the Conservation of Coastal Zone Resources, published in 1977.

Response

See Generic Response B.

d) Comment

Acceptable procedures for implementing guideline 2.1, e.g., growth management plans, presently required by the Corps of Engineers, need to be developed or reconstituted from the original draft of the guidelines.

Response

See Generic Response C.

40) Mid-Continent Oil and Gas Association (Lyons - 10/30/79)

a) Comment

The many statements and comments Mid-Continent has offered to the State over the past 10 years on coastal zone management are incorporated by reference.

Response

No response necessary.

b) Comment

The LCRP is an "environmental protection plan", not a "multiple-use management plan" as required by the CZMA and Act 361. The present plan does not adequately balance economic development with its environmental protection goal and is replete with statements which will unnecessarily restrict development in the interest of environmental protection.

Response

See Generic Response A.

c) Comment

The plan is woefully short in recognizing the national interest in domestic energy development and protection. For example, the thrust of guidelines 1.6, 1.7 and 1.8 is to protect the environment, without consideration of economic, social and energy needs. Similarly oil and gas resources are not even listed under "Resources in Which There is a National Interest" (p.118).

Response

See response to comment 23(d) and Generic Response A.

d) Comment

Act 361 does not provide DOTD with the authority to review each individual in lieu permit issued for oil and gas activities by the Office of Conservation, as is proposed in the DEIS.

Response

See Generic Response G.

e) Comment

Since coastal management must provide for multiple-use, the proposed guidelines need to include some flexibility. We support performance standards as opposed to rigid technical standards.

Response

OCZM and CMS also support some flexibility in decision making. The performance standard approach embodied in the Guidelines provides for such flexibility.

41) Mid-Continent Oil and Gas Association (Lyons 11/21/79)

a) Comment

The Louisiana program must be based on the premise of "multiple-use". This approach is stressed in Act 361 and the CZMA but is not served by the program, which stresses environmental protection.

Guidelines 1.6 and 1.7 set the tone of the LCRP. Guideline 1.6 lists information regarding general factors that must be utilized by the permitting authority in evaluating whether a proposed use will be in compliance with the guidelines. Of 19 listed items, only 3 are concerned with economics or the benefits of development in the coastal zone; 16 are designed to evaluate environmental effects of the proposed use. Guideline 1.7 (p.51) lists adverse impacts hi' are to be avoided in CZM permitting, of 21 impacts only 2 relate to economic and social impacts; 19 list potential adverse environmental impacts.

These guidelines indicate that the thrust of the program is not a balancing of resources and resource-uses, but an "environmental protection plan" allowing some use of the coastal environment when the use is, without question, of major economic or clear social benefit, has minimum impact on the coastal environment, and, if impact cannot be avoided, is conditioned so as to the maximum extent practicable, minimize or offset adverse impacts to that environment. While environmental protection is a noble goal, it has been emphasized in the LCRP to a degree not contemplated by either the federal or state legislation. The intent of the LCRP is clearly to preserve and protect the coastal natural environment and clearly not to manage and best utilize the variety of "natural, commercial, recreational, ecological, industrial, and esthetic resources of the coastal zone.)" This obvious intent carries with it the potential for serious consequences not only to the oil and gas industry, but to all pursuing the best and fullest utilization of Louisiana's coastal resources.

Response

See Generic Response A.

b) Comment

Section 304(a) of the federal CZMA limits severely the inland boundary of the coastal zone. The initial boundary adopted by the Louisiana Legislature in Act 704 of 1977 met these limitations. The current boundary is far inland from the coast line. The CZMA has thus been converted into a land use regulation covering lands not properly classed as part of the coastal zone.

Response

See Generic Response E.

c) Comment

Our research indicates that no accurate estimate can be made of the amount of land loss due to petroleum industry dredging. Thus, the estimate that 25 percent of the 16.5 square-mile average annual net landless over the last 30 years is due to petroleum dredging (p.36) will be proven to be a significant overstatement.

Response

The publication Land Loss in Coastal Louisiana, by Craig, Turner, and Day, indicates that excavation of canals and their associated spoil bank area may constitute up to 39 percent of the total land loss.

d) Comment

Most oil and gas related canals have a minimum relationship to saltwater intrusion. Therefore the statement on p.39 concerning the impact of new canals and waterways is probably best directed at major navigational canals.

Response

While it is true that major navigational canals are the primary cause of salts water intrusion, any new canal which changes the hydrology of an ecological regime adds to the overall effect of adversely affecting the environment. Therefore, overseeing and managing the methods and locations of these canals should reduce the cumulative impact on the environment.

e) Comment

The statement on page 41 is inaccurate in that while channel dredging projects will remove and replace land area, it does not represent a total destruction of habitat. Such activities will certainly have a positive impact on some life forms.

Response

The statement on page 41 that "wetlands and other habitat have been destroyed by dredge and fill projects..." is accurate. While it is true that spoil banks will be beneficial to the more mobile fauna species by providing increased access, it cannot be denied that the spoil placed on surrounding wetlands changes the ecological regime of the surrounding marsh or swamp, alters sheet flows, and in general alters the visual aesthetics of the area, in addition to destroying those less mobile fauna species.

f) Comment

The statement, "For example, land loss has already resulted in an economic loss in fishery products estimated at between \$8 and \$17 million dollars annually", is questionable. See statements on p.26 to the effect that the value of fisheries has remained relatively constant, and consider studies supporting the theory that fish yield is cyclical in nature. What about the benefits provided by this land conversion? Was it converted to agricultural use; was a road built; was it oil and gas exploration? Each has a counterbalancing economic benefit. Some benefits may far outweigh the resulting loss in fishery yield, if indeed there is loss.

Response

The quoted statement on page 41 of the DEIS has been substantiated by three independent studies referenced in the text. The statement addresses land loss in general and does not imply that the total loss is caused by oil and gas activity. Analysis of the benefits of proposed uses will be performed on a case-by-case basis. These analyses will address any economic benefits provided by a project as well as environmental factors.

9) Comment

There is a national interest in oil and gas activity, and in keeping this activity economically realistic. Restrictions and conditions should be realistic and have a real and significant environmental benefit. Denials and conditional approvals should be kept to the absolute minimum and used only when there is no other alternative.

Response

Energy production and transmission facilities are listed as facilities in which there is a national interest in Chapter VI, and therefore will be considered as part of the "national interest" factors in guidelines 1.6 and 1.8. In those decisions involving guideline 1.8, the systematic consideration which must be made by the decision maker includes an evaluation of whether "the use would serve important regional, state or national interests, including the national interest in . . . the siting of facilities in the coastal zone identified in the coastal resources program." The guideline also requires that any conditions to the permit "are technically, economically, environmentally, socially and legally feasible and practical."

h) Comment

It is expected that the state CZM guidelines will provoke the unnecessary conditioning of permits granted to oil and gas interests under the CZM program. In worst cases, the conditioning may mean a well not drilled, oil and gas horizons not explored, a pipeline not laid. Hopefully, these cases will be the exceptions.

With rare exception, however, it is safe to say that oil and gas exploration will cost more--significantly more--due to directional drilling and similar requirements. It is well known that a requirement for directional drilling will on the average, increase the cost of a project 50% and may very well double the cost. It may also be safely said that such costs will be ultimately borne by the consumer. Some projects will be delayed or abandoned because of the increased costs.

Response

Conditioning of permits as described in the guidelines is necessary. The State is required by 15 C.F.R. §923.3(b) to take steps to assure the appropriate protection of wetland habitats. Act 361 also mandates that the LCRP recognize developmental suitability of coastal areas and realize that the guidelines use may differ for the same use in different areas Section 213.B (c)(2). In addition, wherever possible, detrimental impacts are to be minimized by necessary technology including directional drilling under Section 213.8(c)(5).

Although close scrutiny of oil and gas permits is needed from the environmental standpoint, the LCRP recognizes that our nation's energy needs are great and the need for further oil and gas explorations is evident. Oil and gas resources are however, non-renewable while the fisheries in wetlands are renewable. In terms of future considerations of our environment, renewable resources will remain, given proper management practices, when all oil and gas reserves are gone.

i) Comment

Guideline 1.6(m) is cited as an example of the "national interest" protection offered oil and gas. But there are 18 other items in this guideline requiring special consideration in permitting, 16 of which offer "balance" for the environment.

Response

OCZM regulations require that States describe a process for continuing consideration of the national interest in the planning for and siting of facilities during program implementation. See 15 C.F.R. §923.53(c)(4). The LCRP meets this requirement through the national interest provisions in guidelines 1.6 and 1.8. Energy production and transmission facilities are explicitly recognized as facilities in which there is a national interest in Chapter V, (see Table VI-1) and consequently must be considered in coastal use permitting decisions.

The quantity of environmental factors listed in guideline 1.6 is no' relevant as the consideration of the national interest is required. Consideration of environmental factors in no way precludes or negates this consideration Of national interest.

i) Comment

Guideline 1.7 does not include the national interest in oil and gas in the list of factors to be considered in guideline 1.8 decisions. Therefore this interest is not protected by 1.8, but will be overridden or, at best, significantly restricted so as to provide some growth, "adequate" growth, in favor of protecting, developing and restoring the coastal environment.

Response

See Generic Responses A and B.

k) Comment

Oil and gas resources should be listed in the chart of "Resources in Which There is a National Interest" on p.118.

Response

See response to comment 23(d).

l) Comment

The emphasis on predictability has been used in revisions to the LCRP to support a theory of maximum environmental protection and minimum environmental impact. A balanced approach which makes it predictable that oil and gas activity will continue without significant economic and technical impact and, without significant procedural delays, would address both multiple-use requirements and the "national interest" requirements of the CZMA.

Response

See Generic Response A.

m) Comment

There is no authority in Act 361 for DOTD review of individual oil and gas permits subject to the jurisdiction of the Office of Conservation as is proposed in p.99 and elsewhere in the DEIS.

Response

See Generic Response G.

n) Comment

Some procedure should be incorporated into the program which allows for expeditious processing of permits (in less than 45 days) for cases for oil and gas activities which necessitate the use of a nearby drilling rig.

Response

The MOU between CMS/DNR and OC/DNR provides for a timely review of all permits issued in lieu of coastal use permits by the Office of Conservation, as well as coastal use permits by CMS/DNR. It is anticipated that the state program will be able to encourage more rapid decisions by federal agencies as well.

o) Comment

While it is recognized that "some areas of the Louisiana coastal zone are more suited for development than others" (p.143), in the exploration of oil and gas we cannot, of course, be limited geographically. We must go to where the oil and gas is in place. The same is often true in the case of pipeline placement. Pipelines must flow from the source of the hydrocarbon resource. It is usually more environmentally acceptable to have such facilities laid in a straight line from source to delivery point.

Response

The LCRP provides for the consideration of siting of oil and gas exploration facilities as in the national interest. However, while the LCRP recognizes that in some instances it is more environmentally acceptable to have pipelines laid in a straight line from source to delivery, decision makers are committed to using the applicable guidelines in their decision making. Therefore, there may be cases where new pipeline corridors will not be permitted and the permittee will be caused to use existing pipeline corridors.

p) Comment

While as an objective "the minimization of habitat loss" (p.144) is proper for the state CZM program, some habitat loss is necessary if the oil and gas opportunities of south Louisiana are to be thoroughly explored. It is our belief that the habitat loss attributed to petroleum industry activity and the environmental effects of dredging and changing a marsh land habitat to a fresh or salt water habitat have been overstated. In order to adequately balance the many interests involved in the Louisiana coastal zone, some habitat loss, however, must be accepted. Perhaps the program should place more emphasis on preventing naturally caused losses and stressing the positive approaches to re-building coastal areas.

Response

The LCRP agrees that "the minimization of habitat loss" is proper for the State coastal zone management program and recognizes that some loss is acceptable. In order to further this laudable goal, the LCRP will undertake positive projects such as freshwater and sediment diversion to restore and enhance the marsh as well as create new marsh. This will help offset losses from natural as well as man-made causes.

q) Comment

Any guideline suggesting directional drilling must not be mandatory or presumptuous in nature (p.145). Each well is different, each must be evaluated individually. To require directional drilling generally would result in the cancellation of some projects for technical reasons, the economic infeasibility of others, and could result in more adverse environmental impacts for still others. Directional drilling further carries with it safety considerations. With a more difficult and time-consuming procedure, the chances for losing the well are enhanced.

Response

Directional drilling is one technique which can help alleviate the need to dredge additional access canals in some instances. This is important when one considers the impacts of canals on wetlands. The method of directional drilling is already employed in the oil and gas industry. In spite of the beneficial outcome of directional drilling in some instances, the guidelines do not require that directional drilling be used. Instead the guidelines balance conservation and development. In particular, guideline 10.2 states, "To the maximum extent practicable, the number of mineral exploration and production sites in wetland areas requiring flotation access shall be held to the minimum number, consistent with good recovery and conservation practices and the need for energy development, by directional drilling, multiple use of existing access canals and other practical techniques."

r) Comment

We are most concerned about efforts by local governments to "enhance their management capabilities" (p. 146) over the activities of the oil and gas industry. Unless such activities are affirmed as "uses of state concern" and under the sole jurisdiction of state government, the industry will be in an impossible situation. We face potentially 12 different sets of regulations. The time consumed in obtaining permits will increase dramatically.

There will be resulting denials of oil and gas permit applications for purely "local" reasons. One can imagine laying a pipeline through six coastal parishes, each having its own coastal use specifications, each involved in siting issues. The business of oil and gas would soon become virtually impossible.

Response

Under Section 213.5(A)(1)(a) of Act 361, "all mineral activities, including exploration for, and production of, oil, gas, and other minerals, all dredge and fill uses associated therewith, and all associated uses" are uses of state concern. Consequently, permits for these activities will be issued at the state level.

42) Smith & Osborne, Attorneys at Law, representing the National Wildlife Federation and Delta Chapter Sierra Club (Osborne -II/10179)

a) Comment

The proposed guidelines and regulations for program implementation presented in the DEIS are ambiguous and vague in comparison to the initial guidelines developed by the State which are copied herein in extensions. The initial guidelines contained in the "Final Report, Development of State and Local Use Guidelines", contained an identification of user groups, identification of major actions, relation of user groups to major actions, major action impacts on the coastal zone, coastal resources program success indicators, and a process for determining if an activity is of state or local concern. In contrast, the presently proposed weakened and eroded guidelines promise to be little more than a paper framework by which Louisiana can receive money for Coastal Zone Management and Louisiana politicians can profit from the power inherent in administering a vague and ambiguous set of regulations. It cannot reasonably be projected that these superficial regulations will through their administration by Louisiana CZM authorities result in an effective program. Louisiana's track record in wetland regulations indicates otherwise.

The FEIS should therefore discuss the "Final Report," compare it with Louisiana's current proposal, and set forth clearly that the present proposal is diffuse of focus, superficial, ambiguous, vague, and does not give clear direction to decision-makers nor the predictability and the basis for informed choices that is provided by the "Final Report."

Response

See Generic Response A concerning the original guidelines contained in the "Final Report".

b) Comment

We will not comment here on the individual proposed guidelines since we believe that more than patches and word changes are needed to make the plan meet the problems of the Louisiana Coastal Zone identified in the DEIS. The FEIS should make the following points: (1) the proposed regulations will not meet the enormous problems of the Louisiana Coastal Zone; (2) the proposed

regulations are probably insufficient to maintain the status quo; (3) existing and developing technologies, if used in wetland projects, could effectively deal with many of the problems facing the Louisiana Coastal Zone; (4) many of the losses and damages resulting from coastal zone projects could be mitigated.

Response

OCZM disagrees with each of the four contentions. With regard to (1) and (2), we find nothing in the program to support such conclusions. The LCRP includes enhancement programs for addressing the severe problems of shoreline erosion and land loss - these should in the long run begin to reverse the recent trends and significantly improve conditions above the status quo. In addition, approval of the LCRP does not absolve federal agencies of their independent responsibility to review public and private actions on the basis of existing federal mandates. It is thus difficult to understand how approval of the LCRP will result in a level of environmental protection lower than the status quo.

We do not understand the reference to the use of existing technologies to address specific coastal problems (point 3), in light of the requirements of the guidelines. Guideline 1.8, in particular, requires the use of locations, methods and practices which are feasible and practical to minimize or offset adverse impacts. Please see Generic Response D regarding the mitigation issue.

43) New Orleans East, Inc. (Higgs - 11/7/79)

a) Comment

The regulations that are cited on page 12 refer to OCZM guidelines which are no longer in effect.

Response

Comment accepted. See revised text, Summary.

b) Comment

There should be documentation for the statement on page 35 that an additional 186,000 acres of the State's wetlands will be lost by the year 2000 if present draining and filling operations for urban and commercial purposes continue at the current rate. There should also be documentation for the statement that estimated 25 percent of the 16.5 square-mile average annual net land loss during the past 30 years as a direct result of petroleum industry dredging (page 36).

Response

These figures were taken from several studies performed for the LCRP, all of which are listed in the annotated bibliography section of the DEIS. The figures were given merely to stress the importance of saving our wetland areas and were not felt to require further documentation. See also revised text in Chapter 1.

c) Comment

On pages 38 and 39 reference is made to a study by Earle in an unpublished Ph.D. thesis. This is not a "professional" source for purposes of DEIS review.

Response

NEPA does not require that sources used in environmental reviews be limited to professional publications.

d) Comment

The discussion of ameliorating erosion and siltation problems through the construction of artificial barrier islands is devoid of a meaningful cost-benefit analysis. This lack of meaningful cost-benefit analysis is found throughout the DEIS.

Response

See Generic Response H.

e) Comment

The definition of "unreasonable" on page 138 is defective in that it describes "abuse of discretion", which is a different standard. Such a definition elevates the term to a standard not commonly used or supported by the CZMA.

Response

The definition of what constitutes unreasonable restrictions or exclusions is within the discretion of the State under comments to 15 C.F.R. §923.12(b)(2). OCZM has found that this definition is a reasonable use of the State's discretion.

f) Comment

The statement on page 152 regarding the drainage of water from fastlands assumes that these discharges will be subject to management as point sources under Federal and State water pollution control programs. This conflicts with the purpose of Section 208 of the Clean Water Act and EPA regulations concerning NPDES permits (40 C.F.R. §122.45).

Response

It is true that not every existing discharge of water from fastlands will necessarily meet the "urbanized area" or "significant contributor" criteria of 40 C.F.R. §122.45, through the majority would or could be classified. Any new outfall would need either a NPDES permit in §122.47 or a general permit under §122.48.

g) Comment

It is stated on page 161 that the program will have adverse economic effects on development interests; the FEIS should quantify these costs.

Response

See Generic Response H.

h) Comment

The statement on page 163 that "notwithstanding state approval for the project, the federal agency is not required to approve the license, permit or assistance application which the federal criteria are more stringent than State's management program" is wholly unsupported by the legislative history as well as the statutory language of the CZMA. If, this position is adopted, it will destroy predictability and make a State's coastal plan useless. Since federal agencies

are given ample opportunity to participate fully in the development of the state coastal program, they should not be allowed to impede proposed activities determined to be consistent with approved state CZM programs.

Response

The statement is supported by Section 307(e) of the CZMA, which states that: "Nothing in this title shall be construed: (1) To diminish either federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters..."

i) Comment

The FEIS should quantify the increased planning and engineering costs of urban and industrial development that will result from guideline 1, so that the intent of NEPA be achieved.

Response

See Generic Response H.

j) Comment

Implementation of guideline 6.6, which requires that restoration take place upon termination of the use, will be impossible, if not a waste of resources, in wetland areas that have been drained and filled. Such areas could be used by another development use, thereby reducing pressures to fill other unmodified wetlands.

Response

Guideline 6.6 is intended to be utilized on projects where some type of building or foundation was constructed, whereby the structure would be removed upon completion of its use and the area revegetated and restored to its pre-development condition.

k) Comment

The alleged positive impact of guideline 9, which seeks to minimize pulse flows of fresh water runoff, is scientifically unsubstantiated. A flat objective to minimize pulse flows is not constructive to coastal zone management.

Response

Guideline 9 is not intended to minimize pulse flows but rather to discourage changing natural drainage patterns by adding new drainage-ways or volume of water.

l) Comment

Act 361 places the burden on the Secretary of DOTD to demonstrate that activities on fastlands will have a direct and significant impact on coastal waters and are thus subject to a permit. Statements on p. c1-3 present the potential for shifting this burden to the applicant to show that the activity does not have a direct and significant impact on the coastal zone.

Response

Comment rejected. Appendix c1, Part II B(2) does not shift such burden to the applicant, it requires only that the developer notify the Secretary when such uses "will result in discharges into coastal waters, or significantly change existing water flow into coastal waters."

m) Comment

The requirement for a surety bond as a condition for issuing a coastal use permit may be extremely costly and unjustified since the program provides sufficient enforcement should the applicant fail to comply with permit conditions.

Response

A surety bond will not be required for most projects. This requirement, as stated, is in the discretion of the permitting body and will be reviewed on a case-by-case basis.

n) Comment

It appears that only areas of regional, state or national importance can be nominated as special areas. According to Act 361 and the CZMA, even areas of local concern may be classified as special areas if they have unique or valuable characteristics.

Response

Areas of local concern may also be classified as special areas and will be reviewed on a case-by-case basis.

o) Comment

The definition of "cumulative impacts" is misleading, it does not recognize that impacts are not significant unless they cumulatively have a direct and significant impact on the coastal zone.

Response

The definition does not state, nor is it implied, that any one impact is not significant. It merely states that the more activities involved, the greater the impact.

p) Comment

The definition of "direct and significant impact" (page c5-2) is clearly erroneous. There is no authority in the CZMA or Act 361 to define the phrase as a "more than negligible" modification of the coastal waters. "More than negligible" is not equivalent to "direct and significant".

Response

In response to this and similar comments, the definition of "direct and significant impacts" found in Appendix c6 has been changed to read: 'an impact which is a direct and significant modification or alteration in the physical or biological characteristics of coastal waters which results from an action or series of actions caused by man.'

q) Comment

The definition of "wetlands" on page c5-3 is identical to that used by the Corps of Engineers. Since Act 361 is directed at coastal waters which have measurable seawater content, the Corps' definition is inappropriate.

Response

The term "wetlands", as defined in the DEIS, is the accepted definition in most agencies. Therefore, it will not be revised.

r) Comment

The definition of submerged vegetation on page m-2 is inappropriate since it makes no mention of the brackish content of water. The definition should read: "rooted vegetation normally completely immersed in brackish water at low tide."

Response

The existing definition is the standard definition as accepted by most biologists. It applies not only to brackish or saline floral species, but also to intermediate or freshwater species.

44) Orleans Audubon Society (Morillo 10/30/79)

a) Comment

"Costs" and "benefits" on pp. 171-179 of the DEIS are calculated in a chaotic and apparently contradictory way. Exactly the same result is listed as both a positive and negative impact (in Part V). This precludes a determination of whether the program will result in a net environmental benefit.

Response

See Generic Response H.

b) Comment

We find that the program and guidelines are designed in part to stop the loss of land and to protect that which remains through such things as the mitigation program and the enhancement of wetlands by freshwater diversion.

Response

No response necessary.

c) Comment

The program rejects an approach which would set aside specific areas or types of land for protection, and others for development. Instead, we are to take each proposed use or project and balance costs and benefits.

However, no clear direction for balancing is given in guideline 1.8, which may be considered the ultimate loophole. Guideline 1.8 really says that even if a use fails to comply with any of the modified guidelines, it could still be approved if it meets the rather vague and general conditions listed. If the program is serious about protecting finite irreplaceable wetlands and other key areas, it must preclude development at some point. A series of finite losses, even if each is "minimized," does finally add up to total loss.

Response

See Generic Responses A and B.

d) Comment

The DEIS displays an unresolved tension between a recognition of the unique value of the coastal zone and a desire to accommodate all "divergent interests." It is thus difficult to determine the net effect of the program; there is no basis for concluding that the net effect would be one of "environmental benefit."

Response

OCZM believes that the LCRP provides a reasonable balance between resource protection and development. While the specific uses that will be acceptable in any given area have not been determined on an a priori basis by the program, and hence one could say that the tension between the needs is unresolved, the policies of the guidelines, and in particular the balancing process contained in guideline 1.8, provide a process for making case-by-case determinations that are consistent with and acceptable under the CZMA. With respect to the comment on the probable effects of program implementation, OCZM has revised Part V of the document to more clearly describe the net effects of the program.

e) Comment

We are dealing with essential habitat for many forms of life; thus, there are animal interests at stake here.

Response

The LCRP recognizes this fact.

45) Outboard Marine Corporation (Doyle - 10/1/79)

Comment

The Outboard Marine Corporation, which represents a large number of outdoor recreation interests throughout the United States, wholeheartedly supports the goals of the LCRP. The need for more public access, better facilities for recreational boating and fishing activities will provide an economic stimulus to coastal Louisiana and the approval of the program will assure the wise use of these resources for years to come.

Response

No response necessary. OCZM thanks you for your support of the LCRP.

46) Phillips Petroleum Company (Copeland - 11/8/79)

Comment

The Phillips Petroleum Company is supportive of the comments made by the Mid-Continent Oil and Gas Association at the New Orleans hearing of October 30, 1979.

Response

See response to comments 40 and 41.

47) RESTORE (Tritico - 11/9/79)

a) Comment

The Abbeville hearing on November 1, 1979, was not scheduled at a convenient time and place. Copies of the DEIS were not received until the second half of October.

Response

OCZM did not receive any requests to change the time and place of the Abbeville hearing, nor any indication that it was inconvenient as scheduled, prior to the hearing. An offer was also made at the hearing to reopen the record for those who arrived late. OCZM apologizes for any inconvenience, but would like to make it clear that written comments on the DEIS have been given full consideration. Copies of the DEIS were mailed in the last week of September to those persons on the CMS/DOTD mailing list and OCZM's mailing list for federal agencies, as well as to those people who had submitted formal comments on prior documents.

b) Comment

Some individuals or groups who spoke at either the New Orleans or Lafayette hearings on the State Hearing Draft were not on the list of people from whom comments on the DEIS were requested.

Response

Copies of the DEIS were mailed to all persons and entities on CMS/DOTD's and OCZM's mailing lists. Comments are not solicited from specific individuals; rather, anyone with an interest was invited to request copies of the DEIS and submit comments.

c) Comment

The proposed program, being a weak and unworkable plan for the most part, should only be approved conditionally and with formal specific understandings which the State must be required to implement within one year. After a year, OCZM should hold public hearings to determine whether the conditions have been met, whether approval should be revoked, and whether OCZM should administer the program on an emergency basis.

Response

See Generic Response I.

d) Comment

The CZM boundary does not meet minimum legal requirements, especially in Calcasieu Parish. The Calcasieu Parish boundary must include all saline water lands within the hundred year floodplain. OCZM should impose a formal condition stating that Federal approval will be revoked within one year unless the legislature corrects the deficiencies in the present boundary.

Response

See Generic Response E.

e) Comment

DOTD has failed to properly manage CEIP funds. CEIP projects, in general, have encouraged more development in the coastal zone, rather than restoration of the coastal zone. In one incident, the Calcasieu Parish CZM Advisory Committee was not even aware of an application for a \$600,000 CEIP grant for a fire station until the grant was announced in the newspaper. While RESTORE is not opposed to the funding of the much needed fire station, we object to the utilization of restoration funds for that purpose and also to the way the grant was awarded. Approval should be conditioned on improved management of CZM and CEIP funds by DOTD.

Response

OCZM disagrees that the State has failed to properly manage CEIP funds available to the State under Section 308 of the CZMA. The purposes for which CEIP funds may be used are not limited to restoration and may, in many cases, be used for the financing of new or improved public facilities or services needed because of coastal energy activity. The grant for the University fire station noted above was made pursuant to Section 308(b)(5)(B) of the CZMA, and was clearly eligible under OCZM's rules for implementation of the CEIP (see 15 C.F.R. §5931.40-42). The CZMA does not require that Section 306 approval of state coastal programs be conditioned on the management of CEIP funds. The implementation of the CEIP is governed by 15 C.F.R. §931 et seq.

f) Comment

Federal approval should be revoked within one year unless DOTO answers specific questions made by the public during the New Orleans, Lafayette, Houma and Abbeville hearings in a public document. In addition, the questions contained in the following comments concerning the DEIS must be answered.

Response

OCZM is required by NEPA to respond to comments on the DEIS before final agency action (program approval) can be taken. This process has been completed in conjunction with CMS/DNR.

g) Comment

The last sentence on page 3 refers to solution of problems with port districts "before they reach the permitting stage" when the previous sentence says that such districts are exempt; i.e., there would not be a permitting stage. This is very confusing.

Response

The text of Summary has been revised to correct this point.

h) Comment

On page 31, there is a claim that 215,000 jobs have been generated by Louisiana ports. That may be correct, but it seems very high. More complete documentation is needed to ensure that jobs are not being counted twice, i.e., claimed by an industry as well as a port.

Response

The text indicates that both direct and indirect impacts are being projected.

i) Comment

The final sentence on page 39 says that the levee system along the Mississippi River is "necessary;" a more accurate word would be "traditional."

Response

"Necessary" is an appropriate description of the Mississippi levee system given the current socioeconomic patterns.

i) Comment

With regard to guideline 1.7(r), any disruption of coastal wildlife and fishery migratory patterns is adverse.

Response

Any disruption of coastal wildlife and fishery migratory patterns may well be adverse in a pristine environment. However, where ecosystems have been adversely modified in the past, cases may well occur where beneficial changes in existing migratory patterns will result from restoration projects for fish and wildlife.

k) Comment

Guideline 1.3 would be easier to understand in chart form.

Response

See Generic Response B.

l) Comment

In previous hearings, we asked that a guideline be added that would encourage more emphasis on restoration. It appears that we got just the opposite in guideline 10.1. This is a real grandmother clause (sic).

Response

Guideline 10.1. does not imply a change in program emphasis, but merely restates some of the provisions of Act 361.

m) Comment

Some new pro-development additions seem to have been made to guideline 6 (p. 59).

Response

Guideline 6 provides for a balancing of development concerns with the intent of minimizing environmental impacts. Industrial, commercial, urban, residential and recreational uses will be encouraged on lands suitable for development above five feet mean sea level or within fast lands and on suitable soils, in areas not prone to flooding and storm hazards, and where public safety will not be endangered. To achieve this end, the State will regulate areas below five feet mean sea level and outside of fastlands.

n) Comment

Non-biodegradable wastes should not be allowed in the coastal zone. The sea level is rising and someday all dump sites in the present coastal zone will be submerged, stressed by increased pressures and the corrosive action of sea water. Things would not be so bad if the material was all biodegradable.

Response

Guideline 8.3 states that waste facilities located in wetlands shall be designed and built to withstand all expectable adverse conditions without releasing pollutants.

o) Comment

The deletion of all the voluntary forestry guidelines will give a clear green light to people who want to cut all of Louisiana's virgin cypress swamps to build a city in a dangerous location.

Response

OCZM and CMS disagree. The guideline policies regarding dredging and filling in wetlands, as well as existing federal wetland policies, would apply to such areas.

p) Comment

Local CZM Advisory Committees should have some influence in the review of deepwater port activities (p. 79).

Response

Act 361 does not explicitly specify a role for local CZM Advisory Committees with reference to the review of deepwater port activities. The committee role will depend on the police jury's mandate in each parish.

q) Comment

RESTORE disagrees with the claim that agriculture, forestry, and aquaculture do not have direct and significant impact on coastal waters (p. 87).

Response

See Generic Response C and response to comment ll(r).

r) Comment

The history of environmental law enforcement in this State should be proof that loopholes become larger and larger upon demand. Therefore, the penalties must be greatly increased and a bond, equal in value to the total project investment, must be posted by any developer (p.94).

Response

The penalties are already adequate to ensure enforcement. In addition, Courts may impose civil liability and order restoration costs or actual restoration of disturbed areas.

s) Comment

The statement on page 96 that the Port of Lake Charles is outside the coastal zone is not true.

Response

The developed parts of the Port of Lake Charles are located outside the coastal zone, however, a small part of the port's property is within the coastal zone boundary. See revised text in Chapter IV.

t) Comment

Why isn't restoration listed as a program objective in Chapter VI?

Response

Objective (2) in Chapter VII, the minimization of loss of habitat areas, incorporates the principle of restoration. Proposed restoration -- in the context of barrier islands, and freshwater diversion -- is described in Chapter V.

u) Comment

RESTORE believes that the guidelines are not specific enough to ensure a sufficient degree of predictability in decisionmaking. We also believe that the exemptions are of such significant scope that the program does not provide for the management of all uses which could have a direct and significant impact on coastal waters (pp. 149-154).

Response

See Generic Responses A, B and C.

v) Comment

The Federal alternatives to program approval should include the right to require conditions that must be met before final approval can be given and the duty to utilize written specific understandings with the DOTD and Governor to insure that the conditions are met within one year. We believe that the federal alternatives should also include the right and duty to hold another series of public hearings one year from now to determine whether or not the conditions have been met.

Response

See Generic Response I.

w) Comment

The final sentence on page 161 indicates that someone other than RESTORE has noticed that the State objectives are too narrow to satisfy the objectives of the nation. This is reinforced by paragraph 4, page 130.

Response

See General Response A.

x) Comment

The last sentence on page cl-9, paragraph F(3), is a terrible idea. Denial of the right to appeal the failure of the administration or local government to hold a hearing is un-American.

Response

See response to comment 17(d) .

y) Comment

Appendix k shows that the exploiters far outnumber restorationists on the LCC. We expected that but we do not think that it is right. Is there no way that the federal government can act as some sort of check or balance to cause the State to include some restorationists on the LCC?

Response

OCZM has no authority to select the people who will serve on the Louisiana Coastal Commission. The LCC is created by section 213.7 of Act 361 and - representation of various interest groups is determined according to that section. Appointments to the LCC are made by the local governing authorities of the coastal parishes and the Governor.

z) Comment

In general, checks and balances seem to be either weak or unworkable within the proposed LCRP. As we understand it, the role of the federal government will be diminished once final approval is given for the LCRP. Then there will be almost no checks, balances, or chance for the LCRP to work, at least not if it is still in its present form.

Response

OCZM will conduct formal annual evaluations of the LCRP under Section 312 of the Coastal Zone Management Act, and will work with CMS/DNR on an on-going basis between formal evaluations. The Secretary of Commerce can terminate

financial assistance to the LCRP if he (she) finds that the State is failing to adhere to and is not justified in deviating from the federally approved management program. For details of the Section 312 evaluation procedure, see Generic Response I. See also response to comment 42 (b).

48) RESTORE (Tull - 11/9/79)

a) Comment

The proposed coastal use permit process will be extremely difficult to carry out, given the significant scope of the exemptions.

Response

See Generic Response C.

b) Comment

The inland boundary of the coastal zone fails to meet the minimum requirements of the CZMA because it does not include all of the waters under saline influence or all transitional and intertidal areas which are subject to coastal storm surge.

Response

See Generic Response E.

c) Comment

The DEIS is grossly deficient in several areas. These include the review process and the general manner and format in which it is written. Specific concerns are as follows:

1. The description of proposed action, "Federal Approval of the Louisiana Coastal Resources Program," and not the LCRP itself, is confusing and inadequate.
2. The review process has, up to this point in time, been a sham. Copies of the DEIS were not always made available to individuals that requested a chance to review and comment on the statement; comments from the public which were brought to the sponsoring agencies' attention appear to have been ignored; public hearings were held in low population areas at a sufficient distance - at least in the case of the Abbeville hearings - from the major population centers to make it all but impossible for the citizens to attend the hearings; and several of the individuals who had testified at earlier hearings were not notified of the DEIS public hearings.
3. Other deficiencies are found in the format used; by this I mean that it is impossible for the general public to assess the potential environmental impact due to the manner in which the EIS is written. For example, guideline 1.8 is not understandable to college professors, let alone the general public. Furthermore, the use of ambiguous terms, misspelled words, grammatical errors, odd syntax, etc., forces one to wonder if there was ever a serious

attempt on the part of the State to present a workable and comprehensive "program."

Response

1. The National Environmental Policy Act (NEPA) applies only to "federal actions significantly affecting the quality of the human environment." The environmental impact statement (EIS) process is undertaken only in connection with federal action. The only federal action involved here is a finding by OCZM that the LCRP meets the requirements of the CZMA. If Louisiana were to implement the LCRP without seeking federal assistance from OCZM, no EIS process would be required under NEPA.

2. OCZM has followed its normal EIS procedures in reviewing the LCRP, and believes that it has met NEPA requirements. See also the responses to comments 47(a) and 65(a).

3. Revisions have been made in the document in response to comments received on the DEIS. See also Generic Response B.

d) Comment

Some restoration program should be implemented.

Response

See response to comment 47(t).

e) Comment

A clause against future nuclear facilities (fission reactors) being built in the coastal zone should be added.

Response

See response to comment 74.

f) Comment

Guideline 3.11 should be changed to read "All artificial non-navigation canals..."

Response

"Non-navigation canals" are defined in Appendix m as "man-made channels." Consequently, no change to the guideline is necessary.

g) Comment

Even with all of the above shortfalls, the program must be immediately approved, but this approval must be conditional. A program must be immediately implemented because of the extensive damage to the coastal zone which is presently taking place.

Response

No response necessary.

49) RESTORE (Hamann - 11/9/79)

Comment

The coastal environment and its wildlife may be totally destroyed by the year 2054. (This comment is expressed in a poem.)

Response

No response necessary.

50) Russell Sage Foundation - Milling, Benson, Woodward, Hillyer, Pierson & Miller, Attorneys at Law
(Benson - 11/1/79)

a) Comment

The DEIS does not accurately describe the applicable legal requirements and permissible uses of Marsh Island, which was donated to the State of Louisiana by the Russell Sage Foundation. The deed of donation prohibits any business, manufacturing, or development on the Island. It also prohibits trespassing, hunting, shooting, trapping, fishing, and the taking or destroying of wildlife thereon. The State itself is, however, permitted to destroy such wildlife and to remove from the refuge, wildlife used in propagating similar wildlife on other refuges. Public use of Marsh Island is not permitted. A "one-mile buffer zone" has also been established by statute to prevent trespassing from a nearby recreation area into the refuge. Several statutes authorize oil and gas activities under leases and permits as approved by the Russell Sage Foundation, Wildlife and Fisheries Commission and State Mineral Board. The latest rules and regulations governing operations under leases and permits are submitted.

Response

Thank you for submitting this additional information regarding Marsh Island. The discussion of the Marsh Island Wildlife and Game Preserve under Chapter V, c) Existing Special Areas, has been revised to reflect this comment.

b) Comment

The lists of "Uses of High Priority" and "Uses of Low Priority" on page 10 of the DEIS should be re-stated as follows:"

Uses of High Priority

1. Uses performed by the State of Louisiana in managing the area as a wildlife refuge and game preserve in public ownership, as permitted by the deed of donation and pertinent statutes and agreements.
2. Oil and gas exploration and development which is performed in such a way as to produce the minimum amount of disturbance to the land and wildlife of the area.

Uses of Low Priority: None

Response

The high and low priority lists have been revised in the FEIS.

51) Shellfish Institute of America (Pausina - 12/4/79)

Comment

The comments submitted by this organization are identical to those submitted by the Louisiana Oyster Dealer and Growers Association (see comment 38).

Response

See response to comment 38.

52) Sierra Club, Delta Chanter, New Orleans Group (Halle - 10/30/79)

a) Comment

The DEIS suffers from a lack of clear policy. An overall statement of policy is needed and specific policies should be incorporated in each of the 10 groups of guidelines.

Response

Act 361 establishes a policy of protecting, restoring, or enhancing coastal resources; maintaining renewable resources; and provides for the development and multiple use of resources. Since these policies, along with the other regulatory provisions incorporated in the program, are implemented by the coastal use guidelines it would be redundant to place the policy statement with each guideline. See Generic Response A.

b) Comment

Although the goals of the program include minimizing loss of habitat (p. 143) through fresh water diversion (pp. 144, 180), there are no specific policies to guide decision makers in any of the guidelines, only the phrase "to the maximum extent practicable" in guideline 1.8. Guideline 1.3 is not consistent with this policy goal in that it is circular and does not provide a predictable balancing mechanism as mandated by the federal CZMA. The following alternative developed by our attorney Mr. Michael Osborne, should be substituted for it: "Guideline 1.8. In those guidelines in which the modifier 'maximum extent practicable' is used, the proposed use is in compliance with the guideline if it complies with the standard without the modifier. If the proposed use is only in compliance with the guideline as modified by the term 'maximum extent practicable,' the valuation must include a precise explanation of the meaning, of that modifier in the context of the permit application. If the modified standard is not complied with, the use will be in compliance with the guideline only if the permitting authority finds, after a systematic consideration of all pertinent information regarding the use, the site and the impacts of the use as set forth in guidelines 1.6 and 1.7, all applicable specific guidelines and a balancing of their relative significance, that the public benefits resulting from the proposed use would clearly outweigh the adverse impacts resulting from non-compliance with the modified standard, that significant public benefits would result from the use, that the use is coastal water dependent and there are no feasible and practical alternative locations, methods, strategies and practices for the use that are in compliance with the standard. In defining the public benefits of the proposed use, the decision maker may take into

account whether the use would serve important regional, state or national interests, including the national interests in protection of natural resources such as wetlands and the siting of facilities in the coastal zone."

Response

See Generic Response B.

c) Comment

The program should state that the purpose of CZM in the State is to reverse wetlands losses by best available technology, to minimize and mitigate future damage and to rebuild lost wetlands. The guidelines should mandate mitigation either by setting aside certain wetlands, restoration, or by establishing a mandatory fund for preserving wetlands for public use.

Response

See Generic Response D.

d) Comment

Clear cut criteria are needed to decide which areas are to be developed and which are not. The New Jersey CZMP/FEIS uses a system with such criteria.

Response

See Generic Response A.

e) Comment

Criteria for decision making concerning cumulative impacts should be included in the program.

Response

See Generic Response F.

f) Comment

Federal regulations require that the State must be able to acquire land through condemnation. Act 361 prohibits condemnation.

Response

Federal regulations require a State to have the ability to "acquire appropriate interest in lands, waters or other property as necessary to achieve management objectives." 15 C.F.R. §923.41(b)(2)(iv). If acquisition or condemnation will become a necessary technique to achieve management objectives, the State must indicate for what purpose acquisition will be used. The Louisiana Legislature made a determination in Section 213.19(B) of Act 361 that "the involuntary acquisition, directly or indirectly, of privately owned property is not necessary to achieve the intents and purposes" of Act 361. OCZM regulations do not require condemnation powers if other regulatory techniques are sufficient to achieve management objectives; consequently the LCRP meets federal requirements.

q) Comment

The equivalent of the information contained in Corps of Engineers 404 permits should be made available to interested parties through permit notification.

Response

Information equivalent to that required by the Corps will be required for applications for coastal use permits and will be made available to interested parties upon request. See Appendix c1, Part III.

h) Comment

A \$500 maximum fine for taking an extra acre of land is not enough to stop most developers.

Response

Act 361 provides that intentional violators are subject to up to 90 days imprisonment in addition to a fine. In addition, the Court may impose civil liability and order restoration costs or actual restoration of disturbed areas.

i) Comment

The Coastal Zone Management Advisory Committees in the parishes should be continued in order to coordinate much needed State funded educational activities regarding CZM and wetlands. These committees should also be granted the power to request of local government a public hearing on a permit or to hold such public hearings on their own.

Response

Section 213.9C(4) of Act 361 provides that each local government preparing a local program may appoint a coastal advisory committee (CAC). If appointed, this CAC shall represent both conservation and development interests, and shall assist the local government in the development and implementation of the local program, and in the development of special management programs affecting special areas. It is within the purview of local government to decide whether a CAC will be appointed and the role the CAC will play in the local program. Louisiana has encouraged the use of CACs since 1976 and will continue to do so. The State feels that CACs provide an excellent opportunity for public participation in local program development and implementation.

Section 213.14(B)(4) of Act 361 states that only one public hearing, if any, need be held on a permit application. The public hearing will serve for all governmental bodies taking part in the coastal permitting process. Appendix c1 of the rules and regulations, Part III F(2), provides that any person may request in writing that a public hearing be held on a permit application. Because the definition of "person" includes "any . . . public agency or authority, or governmental body", a CAC does have the right to request a public hearing. However, the CAC is a local entity and as such it is within the realm of each local government to decide what the powers of the CAC shall be. This includes the power of a CAC to hold a public hearing.

53) Sunoco Production Company (Ruder - 11/5/79)

Comment

The Sun Production Company agrees with and supports the comments made by the Mid-Continent Oil and Gas Association at the October 30, 1979, hearings in New Orleans. The FEIS should reflect clearly that coastal zone management

is a multiple use management plan with emphasis on the need to provide for adequate economic growth and development.

Response

See responses to comments 40 and 41.

54) Tennessee Gas Pipeline Company (Simpson - 11/8/79)

Comment

The Tennessee Gas Pipeline Company is supportive of the comments made by Mid-Continent Oil and Gas Association at the hearings on October 30, 1979, in New Orleans, as well as the their written comments to be submitted on November 12, 1979. The multiple use concept endorsed in these statements should be given serious consideration, especially in these times of energy crisis.

Response

See responses to comments 40 and 41.

55) Texaco, Inc. (Liles - 11/26/79)

a) Comment

Act 361 and the CZMA, when taken together vigorously and categorically require a balanced program, based on multiple uses of the coastal zone, and one that allows continued oil, gas and mineral operations in the zone, free of undue and unreasonable restrictions. The main substantive provisions of the LCRP, and particularly the guidelines, instead adopt a distinct preference against further developments in the zone, and in favor of the perpetuation of the existing physical conditions of the zone without change for preservation and environmental reasons. As an example of this bias, it is noted that the vast majority of the criteria in guidelines 1.6 and 1.7 are environmental rather than economic and social in nature.

Response

See Generic Response A.

b) Comment

The guidelines convert the injunction of Section 213.8(c)(5) of Act 361 to avoid physical changes "whenever feasible and practical" to a prohibition of such changes to the "maximum extent practicable". This is wholly unauthorized. No authority exists to interdict changes and alterations in the coastal zone to the "maximum extent" as may be "practicable". Similarly the guidelines disregard the statutory restriction that "detrimental impacts" be minimized only when such avoidance is "practical".

Response

The decision making process set forth in guideline 1.8 for utilizing the term "maximum extent practicable" provides for consideration of feasibility and practicality at every stage. Section 213.8(c)(5) of Act 361 established the minimization of detrimental impacts whenever feasible and practical and not

as a strict minimum on the requirements of any one guideline but rather as a goal to be met by the guidelines as a whole. Furthermore, "encouraging minimum change of natural systems" is recognized as a means of meeting this goal. As a whole, the guidelines meet this goal.

c) Comment

Guideline 1.8 places an onerous burden of proof on the applicant for a permit which contravenes the intent of the CZMA and Act 361. In order to meet the requirements of both laws, it is recommended that the statutory phrase "feasible and practical" should be substituted for "maximum extent practicable" throughout the guidelines. The following definition should be included:

"'Feasible' and 'Practical' - methods, practices, and techniques for conducting a use which are consistent with sound engineering practice and which, after consideration of the economic, environmental, and social costs and benefits, are reasonable and achievable and which impose no undue or excessive restrictions or expenses on any user."

Response

Guideline 1.8 is a description of a process to be followed by decision makers. The only burden placed on applicants is to more fully consider alternatives to the use requested. The proposed definition was submitted previously, considered, but not adopted because it seems to be too process-oriented rather than definitional. The adopted definition makes it clear that the methodologies must be proven and efficient and that economic factors be considered. See also response to comment 55(b).

d) Comment

Other guidelines which absolutely forbid any alterations in the physical conditions of the zone should be revised to meet the tests of "feasibility and practicability".

Response

Only two guidelines expressly forbid activity in the coastal zone. Guideline 3.7 forbids linear activities traversing barrier islands. These islands are uniquely important for hurricane protection and protection of estuaries from open tidal exchange. Due to the value of the barrier islands to the estuaries and to the scarcity of these, no exceptions should be allowed.

Guideline 4.5 prohibits the disposal of spoil in such a manner as to create a hindrance to navigation or fishing, or hinder timber growth. This is necessary to protect the values provided by such uses.

In the opinion of OCZM and CMS, these two areas are important. In all other areas, exceptions may be made by guideline 1.8 on a case-by-case basis. See response to comment 55(b).

e) Comment

The inland boundary far exceeds that permissible under the CZMA. Attached hereto are copies of the "Report of the Boundary Committee of the Louisiana Coastal Commission to the Louisiana Coastal Commission," dated January 28,

1977, and the Recommendations of the Louisiana Division of the Mid-Continent Oil and Gas Association concerning certain regulations proposed by your office in the Federal Register of August 29, 1977, 42 FR 43552 et. seq.

Both of these exhibits establish, in the writer's opinion, that the inland boundary of a State's coastal zone must be located within a relatively narrow distance of the coastline and cannot extend inland for such extensive distances and encompass such extensive areas as that adopted in Act 361 of 1978 and in the LCRP.

Response

See Generic Response E.

f) Comment

Act 361 does not give DOTD the review authority over individual in-lieu permits issued by OC/DNR which is asserted in the DEIS. All such language should be deleted.

Response

See response to comment 41(m).

g) Comment

Texaco concurs with the statement of the of Mid-Continent Oil and Gas Association submitted on November 21, 1979.

Response

See response to comments 40 and 41.

56) Texas Eastern Transmission Corporation (Young - 11/5/79)

a) Comment

Deepwater port commissions could be informed at a very late date concerning consistency of their activities if the LCRP falls behind in its on-going reviews. A schedule should be designed for the LCRP to follow in review frequency and a time limit established for concurrence of consistency by reason of no-comment.

Response

Act 361 does not provide for a consistency review schedule or concurrence time limit. Consistency reviews will proceed on a timely basis. In cases where federal permits are required, the consistency review will take place within the time limits of 15 C.F.R. §930.

b) Comment

Guideline 2.6 requires careful scrutiny to prevent violations of the points in guideline 1. Levees for protection from flood and hurricane damage can be built around "fast lands" without adversely affecting hydrological patterns. Many of these patterns have changed as a result of land development, yet much of these developed lands are not protected by levees and to do so would likely cause further changes and damage to hydrologic patterns.

Response

Guideline 2.6 does not conflict with of guideline 1 in view of the guideline definition of hurricane or flood protection levees: those levees and associated water control structures whose primary purpose is to prevent occasional surges of flood or storm generated high water. Such levee systems do not include those built to permit drainage or development of enclosed wetland areas.

c) Comment

Guidelines 6.1 and 6.2 are open-ended. Although they put some special order to development, they fail to limit it and may result in significant peripheral sprawl. A zoning plan or growth limits that would not limit progress and growth but would limit where it may occur is needed.

Response

See response to comment 47(m). Local governments have the option of developing zoning maps or growth limits under Act 361.

d) Comment

As federal agencies themselves determine the consistency of their projects or activities with the LCRP, it seems appropriate to require wider review of such activities and projects to determine if their affects are confined to excluded lands and to render a less biased analysis of consistency. Public notice and time for review and comments by the public and scientific community of a minimum of 30 days should be instituted prior to a decision by the Secretary of DOTD to agree to a federal consistency determination made available to him.

Response

Initially it should be noted that consistency review is not aimed at determining whether the effects of federal activities are confined to federal lands but rather to determine if they are consistent to the maximum extent practicable with the state program. See Section 307(c) of the Coastal Zone Management Act.

Procedural rules for consistency review will be finalized during the first year of program implementation. federal regulations require that public notice given of consistency review for activities requiring a federal license or permit and outer continental shelf activities. See 15 C.F.R. §930.60; 930.61; 930.78(1979). At a minimum, public notice must be in accordance with state law, and must include a request that comments on the proposed activity be submitted to the state agency. Public hearings are not required by the regulations, and are instead left to the discretion of the state. Consequently CMS/DNR will determine in the course of promulgating its consistency rules whether public hearings will be held and exactly what form public notice will take.

In addition, public notice of consistency reviews for federal assistance to state and local governments is given through the OMB A-95 process.

e) Comment

It appears that the decision to hold a hearing on a coastal use permit is made subjectively within DOTD (page 92). A provision should exist for having a public hearing if comments received warrant it even if it was previously decided that one was not necessary.

Response

Such a provision is contained in the LCRP procedural rules, Appendix c1, Part III F.

f) Comment

Under the CZMA, the State has the authority to acquire private property through condemnation to achieve conformance with the management program. Under Act 361, state agencies can acquire property by expropriation. It may be appropriate for this authorization to be suspended until the State demonstrates the ability to properly manage the land within the coastal zone that it has control over before it is allowed to take private property. A term of between two to four years should be set as an observation period - at that time a review may suggest whether the State is prepared to assume this further authority.

Response

Federal regulations recognize that acquisition of land through condemnation may be a necessary technique to achieve management objectives, but a State is not required to have such authority. See 15 C.F.R. §923.42(b)(2)(iv). The Louisiana legislature determined in Section 213.19(B) of Act 361 that involuntary acquisition of private property is not necessary to meet the objectives of the LCRP, and prohibited the involuntary acquisition of private property under the authority of Act 361. Therefore, the only governmental bodies participating in the LCRP with powers of acquisition are those state agencies and local governments which have expropriation powers under other existing constitutional or statutory authority. See Section 213.12 of Act 361.

g) Comment

Plans to increase sediment deposition at the Atchafalaya River delta in order to increase the growth of new wetlands and slow the loss of sediment offshore must painstakingly avoid further acceleration of sedimentation of the Atchafalaya floodplains. Ownership as well as future use and purpose of any lands created by these projects or wetlands must be clearly delineated now.

Response

The development of the Atchafalaya River delta as a special management area would include appropriate consideration of such impacts and planning for future uses of created wetlands.

h) Comment

Appendix c1-9,G(l) needs to be clarified concerning the interruption of the 30-day review period when an application is found to be incomplete or inaccurate. Upon receipt of the required changes or information, will the 30-day period begin again at day one or start again where it was stopped?

Response

The general requirements for coastal use permit applications (Appendix c1, Part III A) provide for a completed application to be submitted--following staff consultation if necessary. Consequently, an incomplete or inaccurate submission is not a proper application, and a new thirty-day review period begins after the interruption and upon receipt of the full information. See revised rules and procedures for the processing of applications contained in Part III G of Appendix c1.

57) Texas Pacific Oil Company, Inc. (Kendall - 11/9/79)

a) Comment

Texas Pacific Oil Company, Inc., supports the comments made by the Louisiana Mid-Continent Oil and Gas Association at the New Orleans hearing on October 30, 1979. In light of the current energy situation, it is imperative that lands known to contain quantities of hydrocarbons remain open to exploration and production activities. The program would severely hamper the development of oil and gas. The DEIS fails to adequately assess competing economic interests that are vital to this nation's welfare, and is conflict with the multiple use concept envisioned by the CZMA.

Response

See response to comments 40 and 41.

58) Transco Energy Company (Cofield - 11/7/79)

Comment

We are deeply concerned that the LCRP as described in the DEIS is remarkably deficient in developing a multiple use concept embodied in both the CZMA and Act 361. Instead the program has adopted objectives solely designed to protect the natural environment, regardless of other equally important state and national considerations. As an example the Coastal Use Guidelines, contained in Chapter II, are dominated by environmental protectionism. As a result, the program sorely needs to develop more of a management type approach including a chapter on socioeconomic considerations and expanded decision making criteria to ensure balanced trade-offs.

Response

See Generic Response A.

59) Williams Inc. (Marsak - 11/7/79)

a) Comment

As the boundary does not follow vegetation or geologic lines, it is unclear as to the extent to which the boundary includes all significant coastal resources.

Response

See Generic Response E.

b) Comment

The availability and completeness of the information gathered to define "coastal waters" needs to be reviewed. Similarly the definition of coastal waters is vague, in that standards of measurability, normality and period are undefined.

Response

See Generic Response E.

c) Comment

It is inconsistent to exempt septic systems, whether on fastlands or not. The cumulative impact of septic systems is not discussed nor is the lack of regulation of leach fields - ground water separation discussed.

Response

See Generic Response C.

d) Comment

The cumulative impact of exempting residences or camps is virtually ignored. The statement on page 159 is insufficient in that it does not address the septic problem.

Response

See Generic Response C.

e) Comment

The DEIS does not address the question of sufficiency of present state laws governing hazardous waste disposal.

Response

Sufficiency of state hazardous waste disposal laws is addressed in guideline B.2 which incorporates regulations approved pursuant to the Resource Conservation and Recovery Act, as amended by P.L.94-580. The Environmental Protection Agency is the federal agency with authority to review the sufficiency of state laws in this area.

f) Comment

The discretionary authority of the Administrator to exempt projects from the permit process could have an environmental impact which should be addressed in the FEIS. Such impacts could be mitigated if the burden of proof were shifted from the applicant to the Administrator.

Response

The burden of proof under Appendix c1, Part II B(5) is on the Secretary.

g) Comment

Approval of the program should be delayed until the level of exemptions to the coastal use permit program is changed to protect coastal resources and the guidelines are adequate for predictable decision making.

Response

See Generic Response A and C.

60) Reverend Amory Alexander (10/30/79)*

Comment

Rev. Alexander's comments presented at the New Orleans Hearing are those of "Citizens for Safe Energy." (See comment 27.)

Response

See response to comment 27.

61) Charles Gary lalze (10/31/79)**

a) Comment

The program overlooks several significant problems related to fastlands.

Response

Activities located within fastlands are generally exempt from the coastal use permitting system under Section 213.15 of Act 361. The LCRP may, however, regulate activities on fastlands when they would have direct and significant impacts on coastal waters.

b) Comment

Several areas south of Houma, presently excluded from the coastal zone, should be included within the zone. The boundary should be changed prior to program approval.

Response

See Generic Response E.

62) Charles Broussard (11/1/79)***

Comment

The boundary line in Vermilion Parish cuts across the Delta area. This is inconsistent with other parish boundaries. The boundary should follow an established elevation line, rather than an arbitrary line.

Response

See Generic Response E.

63) Michael J. Caire, M.D. (11/5/79)

a) Comment

A clear definition of "maximum extent practicable" is needed if the plan is to preserve wetlands.

Response

See Generic Response B.

b) Comment

Mitigation is a valuable tool that must be included in the LCRP.

Response

See Generic Response D.

c) Comment

The wetlands of Lake Pontchartrain deserve special attention.

Response

The initial steps in designating the Lake Pontchartrain Basin as a special management area have been proposed in the program implementation grant application for 1980.

d) Comment

A specific plan for public education on the value of wetland preservation is needed.

Response

Several educational activities have been sponsored by the LCRP in the past. These include 1) construction and touring of the interactive display on Louisiana's coastal zone; 2) the bi-monthly newsletter Cote de la Louisiana; and 3) various seminars and presentations given by the CMS staff. In addition, sixteen of the seventeen coastal parishes presently have coastal advisory committees, which are open to the public, have played an essential role in reviewing, commenting and developing the LCRP. These types of activities will continue after approval and CMS welcomes any suggestions for particular projects.

e) Comment

Notices regarding permit applications should include at least the same information that the Corps of Engineers require.

Response

Public notices will contain at least the same information as is currently included in the Corps process.

64) Francis Anthony Coco (11/1/79)***

a) Comment

The term "maximum extent practicable", used extensively throughout the guidelines, is too vague and open to interpretation. The term "best available technology" should be substituted in most instances.

Response

See Generic Response B.

b) Comment

A better definition of water-dependent projects should be included in the guidelines.

Response

The definition of coastal water dependent uses is appropriate in that it considers the needs of various uses requiring access to or use of coastal waters.

c) Comment

Provisions should be made for mitigation for development projects in wetlands.

Response

See Generic Response D.

65) John Davis (10/31/79)**

a) Comment

Both the hearing schedule and recent primary elections have had an adverse effect on attendance at the DEIS hearings.

Response

OCZM did not receive any requests prior to the hearings for rescheduling, and consequently was not aware that the schedule was inconvenient for some. OCZM apologizes for any inconvenience, but assures those who submitted written statements that their comments have received full consideration.

b) Comment

Many local government drainage programs in the coastal zone, and upland areas not in the zone, have had extremely detrimental impacts on wetland areas. Drainage of wetland areas often reduces the water table to below sea level, building up toxic levels and salt content. There needs to be safeguards in the program so that engineering and water table studies are conducted and drainage systems will meet the proposed guidelines. You can't expect the parishes to police themselves under guidelines 9.1-9.3 since they are not doing it now.

Response

Section 213.13 of Act 361 mandates that any governmental project which directly affects the coastal zone, whether or not it is within the coastal zone, must be consistent with the guidelines. This would include those projects cited in the comment.

56) Christine Duncan (10/30/79)*

Comment

Ms. Duncan supports the written comments submitted by the Citizens For Safe Energy (comment 27) and believes that the guidelines should be modified to prohibit the siting and operation of nuclear facilities within 10 miles of the coastal zone as well as within the zone itself.

Response

See response to comment 27.

67) Sparrow Dwyer (11/6/79)

a) Comment

The State role in the fate of the Louisiana wetlands should be one of protection and not compromise.

Response

See Generic Response A.

b) Comment

The definition of "maximum extent practicable" developed by the Sierra Club's attorney, Mike Osborne, must be included in the plan.

Response

See Generic Response B.

c) Comment

The guidelines in the plan are too general. The program needs more predictability with clear and concise directives.

Response

See Generic Response A.

d) Comment

The plan is lacking mitigation and this is an absolute necessity.

Response

See Generic Response D.

e) Comment

The program needs to include a specific plan for education on wetlands.

Response

See response to comment 63(d).

f) Comment

The Corps of Engineers has successfully protected the wetlands, there is no reason to change their format. Notices sent out on permit applications should include at least the same information that the Corps requires.

Response

See response to comment 63(e).

9) Comment

Lake Pontchartrain is a unique estuarine system which should be noted as an area of special interest.

Response

See response to comment 63(c).

h) Comment

The plan should be evaluated at the end of each year. Its success or failure should be measured by whether or not it has reduced the loss of wetlands in Louisiana.

Response

See Generic Response I and the discussion of LCRP monitoring capabilities in Chapter VII.

68) Dennis Formenzo (10/30/79)*

Comment

No one speaks for wildlife. In light of existing problems of hydrocarbon wastes and waste storage, radioactive wastes should not be dumped into or stored near the Mississippi River.

Response

Guideline 8.9 specifically prohibits the temporary or permanent disposal of radioactive wastes in the coastal zone. Disposal of other wastes in the coastal zone is regulated under guidelines 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 3.7, and 8.8

69) Charlotte Fremaux (10/31/79)**

a) Comment

The organization of the DEIS is unwieldy in that the continuity between the problems and the solutions --- the guidelines --- is not evident.

Response

Louisiana has tried to present the LCRP in a clear and logical format. The guidelines are only part, albeit an important part of the State's program. These guidelines represent the basis for decision making for the permit system established by Act 361. This Act also provides for organizational changes in the form of State consistency. At the same time the program provides for enhancement programs. By the very nature of Act 361 the "solutions" provided for in the LCRP are not aimed at attacking specific issues on a case by case basis. On the contrary, the LCRP presents a broader solution founded on a new basis for decision making, improved governmental relationships and continued studies.

b) Comment

The original guidelines developed by DOTD were more acceptable in that they included a clear rationale and goal for each guideline. Guideline 1.8 and the use of the term "maximum extent practicable" in the present guidelines allow too much discretion. The predictability found in the guideline is greater for economic development than for environmental protection. The guidelines can be circumvented too easily. It is recommended that the guidelines be restructured to designate specific areas for preservation and others for development.

Response

See Generic Responses A and 3.

c) Comment

The overall structure of the program, including the responsibilities of various state agencies and local governments, is unclear. It is unclear for example, who has responsibility for monitoring and enforcement and how this will be done. Is the state program only to be a collection of local programs? There is little evidence of consistency or coordination between local programs to date and no apparent mechanism to ensure that such coordination will occur.

Response

Monitoring of regulations will be accomplished through field investigations done by agents of the Louisiana DWF. Enforcement will be accomplished through the authority given the Secretary under Section 213.17 of Act 361.

Local programs are formulated under the state program guidelines and must be consistent with the state program. Rules for development and approval of local programs require coordination with the State and adjacent local governments.

d) Comment

Barataria Bay and Lake Pontchartrain should be designated as special management areas.

Response

The formulation of a special Barataria Basin management plan has been proposed under the program implementation grant proposal for 1980. See also Response 63(c).

e) Comment

The program should contain stronger provisions to ensure the preservation of prime agricultural lands.

Response

The LCRP is primarily a wetland and coastal water management program, not a generalized land use program. It only regulates activities with direct and significant impacts on coastal waters. If the changes in use from agricultural to another use results in a direct and significant impact on coastal waters, then the use change must be consistent with State guidelines. Preservation of agricultural land per se is not a purpose of the LCRP.

70) Michael Halle (11/9/79)

a) Comment

The program lacks direction and does not take steps to assure protection of significant resources, such as wetlands, as required by OCZM regulations and therefore is not approvable. For example, it is stated on page 165 that, "The development value of existing wetlands on the other hand will probably diminish..." The very fact that it does not say "This parish which is now A, percent wetlands shall remain 80 percent wetlands," smacks of inconsistency.

Response

The program is given direction by the legislative goals set forth in Section 213.8(c) of Act 361. These goals include conservation of coastal resources and minimization of adverse impacts, but do not include preservation of all wetlands. This balancing of conservation and development is consistent with the policies of the CZMA. See also Generic Responses A and D.

b) Comment

On p. 172, it is stated that guideline 1.8 will lead to "net negative environmental impacts," which is not the intent of the CZMA.

Response

The intent of Act 361 was to design a comprehensive coastal policy, planning and management program. This can best be established by setting specific guidelines for coastal uses and procedures. It is felt that the stated guidelines fulfill this purpose. Guideline 1.8 only refers to those activities with the modifier "maximum extent practicable" and not all guidelines. The modifier in guideline 1.8 appears in less than half of the listed guidelines.

c) Comment

Guideline 2 does not include criteria by which to determine when it is "practicable" to avoid leveeing.

Response

See Generic Response 3 regarding the application of the term "maximum extent practicable."

d) Comment

OCZM regulations call for the identification of practicable alternatives to a proposed use. However, guideline 1.6 is a list of factors to be considered with no provision for an absolute check on a project. This does not meet the requirements of Comment (B), 15 C.F.R. §923.3(b)(2)(ii).

Response

See Generic Responses B and D.

e) Comment

It is totally inadequate to not require mitigation for individual, projects, and contrary to OCZM regulations noted above. In addition, the overall marsh compensation program has not been substantiated.

Response

See Generic Response D.

f) Comment

The proposed coastal use guidelines are not specific enough to insure a sufficient degree of predictability in decision making. On page 28 under "Nonrenewable Resources," the DEIS does not consider archaeological and historic sites as non-renewable resources.

Response

See Generic Response B and response to comment 11(d). Archaeological and historic sites are discussed under Resource Problems, H) Issues and Problems, Chapter I of the revised text.

g) Comment

On page 34, the paragraph on "State Role" should describe the functions of Levee Districts and Port Commissions and their involvement in the coastal zone.

Response

The decision maker at the state or parish level will apply guidelines according to factual information included in the application.

h) Comment

Guidelines 1.1 and 1.2 do not indicate who decides what guidelines are applicable and do not provide the basis for such a decision.

Response

The decision maker at the State or parish level will apply guidelines according to factual information included in the application.

i) Comment

Guideline 1.6 does not indicate which type of actions will have their secondary and cumulative impacts considered.

Response

All actions requiring a coastal use permit will be reviewed for both secondary and cumulative impacts.

j) Comment

Guideline 1.6 does not show how historic and cultural resources will be considered in the decision making process. Cultural resources should be considered during site selection. A literature review should be utilized and supplemented with a field reconnaissance when necessary.

Response

See response to comment 11(d).

k) Comment

In Guideline 1.7, it should be stated that if project modification is impossible scientific excavation should be undertaken.

Response

Guideline 1.7 is intended to avoid impacting the listed areas altogether. If modification to avoid these areas is impracticable, each project will be reviewed on a case-by-case basis to determine the feasibility of scientific excavation. See also response to comment 11 (d).

l) Comment

On pages 127-128, the section on "Historic Sites" does not take into consideration the requirement that federal agencies identify properties eligible to be listed on the National Register of Historic Places. Coordination with the State Historic Preservation Officer to determine eligibility, impacts and mitigation is neglected. Page c1-3, paragraph (l)(c) indicates that the State Historic Preservation Officer is not required to give any guidance on permitting. "Scientific Areas" are also not defined.

Response

All activities requiring coastal use permits will be reviewed by the State Historic Preservation Office, with which the CMS has a memorandum of understanding. The SHPO will review all applications and determine the eligibility of all properties affected.

m) Comment

On page c1-4, special permitting requirements for areas between unique ecological areas such as cheniers should be discussed.

Response

Special areas, existing and proposed, are included in Chapter V. The referenced statement is intended to omit the stated areas (cheniers, salt domes, barrier islands) from exemption. See also guideline 6.9.

o) Comment

The word "immediately" should be deleted from paragraph (D)(1) on page c1-7 and 8, because it is an unrealistic time frame.

Response

As assigning a number for identification is the first step once the application is received, and this section intended to give a sequence of events during the permitting process, the word "immediately" is appropriate.

71) Earl J. Higgins (11/8/79)

a) Comment

The Secretary of DOTD must be given more direction and specific guidelines for making permit determinations.

Response

See Generic Responses A and B.

b) Comment

Mitigation is conspicuously absent from the program.

Response

See Generic Response D.

c) Comment

Lake Pontchartrain should be designated as an area of special interest.

Response

See Response to comment 63(c).

d) Comment

There must be an annual plan evaluation where effectiveness is measured by reduction in the loss of Louisiana wetlands.

Response

See Generic Response I.

72) Wendy King (11/7/79)

a) Comment

The plan needs more predictability and written criteria for permit determinations.

Response

See Generic Responses A and B.

b) Comment

The program needs provisions for mitigation.

Response

See Generic Response 0.

c) Comment

There must be an annual plan evaluation where effectiveness is measured by reduction in the loss of wetlands.

Response

See Generic Response I.

d) Comment

Lake Pontchartrain needs to be considered an area of special interest.

Response

See Response 63(c).

e) Comment

Mike Osborne's, definition of "maximum extent practicable" should be included in the plan.

Response

See Generic Response B.

f) Comment

A wetlands education plan is needed.

Response

See Response to comment 63(d).

g) Comment

Permit notices should include the same information that the Corps of Engineers circulates.

Response

See Response to comment 63(e).

73) John T. LaGrone

a) Comment

Guideline 8.5 encourages the use of overland flow as a tool for removing pollutants from our waterways. The recent experience of the town of Vinton, Louisiana, which was forced to use overland flow in the upgrading of their sewage treatment facilities, indicates that there are a number of potential problems with such systems. These include: the loss of 170 acres of land used for the project; the lack of chlorination of the effluent; the aerosolization of pathogenic bacteria; an increase in the mosquito population; and the potential contamination of waterfowl attracted to the area. It is also noted that guideline 8.5 conflicts with guidelines 1.7(m),(s), and (u).

Response

The use of overland flow as a method of waste treatment has proved successful in other areas. The problems encountered in Vinton can be avoided through sound planning and proper application of these methodologies.

b) Comment

The boundary does not include enough important areas.

Response

See Generic Response E.

74) Philip H. McCrory, Jr. (10/30/79)

Comment

The plan needs a guideline which would prohibit the siting of nuclear facilities in the coastal zone because such a facility would pose an unreasonable threat to the resources of the coastal zone.

Response

Act 361 does not provide LCRP with authority to prohibit the siting of nuclear facilities. All industrial activities, however, must be in compliance with the guidelines. All of the guidelines of 1.6 would be considered and in particular, 1.6(e) which addresses availability of alternate sites. Guideline 1.7 identifies specific impacts to be avoided, which would apply to a nuclear facility. Guideline 1.7(a), for example, is designed to prevent long-term reductions in biological in biological productivity. In addition, guideline 8.9 prohibits the disposal of radioactive wastes in the coastal zone.

75) Jim Nanninga (11/5/79)

a) Comment

Lake Pontchartrain must be adequately protected.

Response

See Response to comment 63(c).

b) Comment

Mike Osborne's, definition of "maximum extent practicable" should be included in the program.

Response

See Generic Response B.

c) Comment

Notices sent out about permit applications should have at least the same information as the Corps of Engineers now provides for similar applications.

Response

See response to comment 63(e).

d) Comment

The plan must address mitigation.

Response

See Generic Response D.

e) Comment

There should be a provision for determining program effectiveness. It is important to know if the program is really reducing the loss of wetlands.

Response

See response to comment 67(h).

76) Joan Phillips (10/30/79)

a) Comment

The method of dealing with the dichotomy between development and conservation of the coastal zone by using the phrase "maximum extent practicable" to allow for development at particular times, is a poor method because it doesn't have the criteria to make impartial and predictable rulings for future development. I support the alternate version of guideline 1.8 proposed by Mike Osborne should be used (see comment 51).

Response

See Generic Responses A and B.

b) Comment

The major controversy in developing the program relates to the specificity and predictability of the guidelines. They are too ambiguous and leave too much discretion to the Administrator.

Response

See Generic Response B.

c) Comment

The scope of the exemptions to the permit process is so significant that all uses having a direct and significant impact on coastal waters will not be managed.

Response

See Generic Response C.

d) Comment

The DEIS has not addressed the question of where development must happen and where preservation must happen, nor has it provided a method of conflict resolution. The New Jersey CZMP, among others, provides some prohibitions on development of particular areas. This approach should be utilized by the LCRP.

Response

See Generic Response A.

e) Comment

Some type of mitigation should be incorporated into the plan, either by an assessed fee or through a fund which would provide money to create, buy or enhance wetlands.

Response

See Generic Response D.

f) Comment

The program should include the transfer of development right process similar to that which has been developed by the Orleans Coastal Advisory Committee. Such a process should be considered every time alternative locations are needed under guideline 1.8. The method includes setting up intensive development zones while allowing transfer rights into the area from those areas zoned for less intensive development or open space.

Response

Local programs may adopt this method if acceptable and if the plan is in compliance with state and federal guidelines.

9) Comment

The phrase..."Any alterations in wildlife preserves and management areas shall be conducted in strict accord with the requirements of the wildlife management body and must also be mitigated" should be added to guideline 6.8 regarding surface alteration.

Response

See Generic Response D.

h) Comment

Guideline 6.9 should be changed to read "surface alterations which have high adverse impact shall not occur unless mitigated on islands, beaches..."

Response

See Generic Response D.

Comment

I concur with the statement of the New Orleans Group of the Sierra Club.

Response

See response to comment 52.

NOTE: The following comments were developed by the Ecology Center and included in Ms. Phillips' comments.

j) Comment

Appendix cl, part II A (1) should read: "The following activities do not require a permit."

Response

Comment rejected. This section of Appendix cl is appropriate as written.

k) Comment

The following section should be added after Appendix cl, Part II B(3): "Should it be found that a group of activities exempted by subsection B(1) above have a cumulative detrimental effect on any area, especially on areas of particular concern as identified by local advisory committees, the Department may conduct such investigation as may be appropriate to ascertain the facts and may require the persons conducting such activity to provide all necessary information regarding the activity so that a determination may be made whether the activity is a use subject to a coastal permit."

Response

The suggested procedure is not authorized by Act 361. Act 361 establishes a series of exemptions for individual activities only, and not on the basis of cumulative impacts.

l) Comment

The word "Secretary" should be changed to the "appellant" in Section B(5), line 6.

Response

The burden of proof is placed upon the Secretary under Section 213.15 of Act 361.

m) Comment

The following section should be added after Part II D: "All of the above activities which do not require permits (except where otherwise stated) can require permits if in the opinion of the Secretary through his monitoring and investigation he discovers that their cumulative impacts are having a detrimental effect on the wetlands or on the coastal waters of Louisiana and especially on the areas of particular concern designated by local governments or the State."

Response

See response to comment 76(k).

n) Comment

Part III section E(1)(a) should include the following: "This brief description should contain: A title, mailing address of applicant, map and location of work including a town in the vicinity, character of work, purpose of the work, area of the project, the amount of dredging that will take place, the placement of the dredge spoil material, and the necessity of an EIS."

Response

Although not specified in the rules, the public notice will contain such information.

o) Comment

The word "all" should be removed from Part III E(1)(c).

Response

Comment rejected. The use of the word "all" is appropriate.

p) Comment

The phrase "and in the official journal of the parish" should be added to Part III E (1)(d).

Response

Comment not understood, this phrase appears in this part of the rules.

q) Comment

The phrase "and the most widely distributed newspaper" should be added to Part III E (1) (d).

Response

The scope of distribution of a newspaper will be a factor considered in choosing "appropriate news media" under Part III E(1)(c). Therefore, the suggested change is not needed.

r) Comment

The phrase "and parish and parishes affected" should be added to Part III E(2).

Response

Notice in the parish journals is required by Part III E(1)(d) when uses are of local concern, thus this request is met without specifically adding the phrase.

s) Comment

The time period in Part III E(3) should be changed from "25" to 30 days.

Response

The existing time period is necessary to meet the processing requirements of Act 361.

t) Comment

The word "handling" should be deleted from Part III E(4).

Response

Comment rejected. It is lawful to charge for handling costs and within DNR's discretion to do so.

u) Comment

The last sentence beginning with word "Failure" in Part III F(3), concerning appeals to the Coastal Commission, should be deleted.

Response

Comment rejected. See response to comment 17(d).

v) Comment

The phrase "and notices of such modifications, except for minor modifications, will be forwarded to all persons who have filed a request to be notified of permit applications" should be added to Part IV A(2)(a).

Response

Comment rejected. Mailing notices of modifications would be an unnecessary and expensive burden.

w) Comment

Part IV should require that restoration or mitigation must take place if noncompliance has caused damage.

Response

Under Section 213.17(E) of Act 361, a court may require restoration or impose other reasonable sanctions if uses are conducted in violation of a coastal use permit. The permitting body, however, does not have authority to impose such penalties.

x) Comment

The guidelines should include the following statement: "After the fact permits are not favored: if a person building a structure which affects the wetlands or coastal waters without obtaining a permit and it is later found that the person should have obtained a permit, he will be expected to mitigate or restore the wetlands and coastal waters he has harmed."

Response

In such situations the builder would be in violation of Act 361 and would be subject to the penalties listed in Section 213.17 of the Act.

77) Anna K. Pleasonton, PhD (11/9/79)

a) Comment

Mitigation for damage to fisheries as well as financial responsibility for spills clean-up should be included in the program.

Response

This type of remedy is not within the scope of Act 361, but remedies may be available under other state and federal laws.

b) Comment

The definition of "maximum extent practicable" suggested by Mike Osborne should be adopted.

Response

See Generic Response B.

c) Comment

Criteria for permit determinations should be specified in detail to avoid subjective determinations on specific permits.

Response

See Generic Response B.

d) Comment

Lake Pontchartrain should be included as an area of special interest.

Response

See response to comment 63(c).

e) Comment

Permit restrictions should be at least as stringent and extensive as the Corps of Engineers restrictions.

Response

See response to comment 43(h).

f) Comment

All practicable measures should be taken to insure public participation and education.

Response

See response to comment 63(d).

g) Comment

Preservation of wetlands should be a priority of the plan. A system to evaluate the effectiveness of the program to preserve wetlands should be an integral part of the plan.

Response

See Generic Response I.

78) Floris M. Relfe (11/12/79)

a) Comment

The revised Guidelines are unacceptable. They are vague and need more predictability.

Response

See Generic Response B.

b) Comment

Criteria must be written into the plan to give the Secretary more direction in making permit determinations.

Response

See Generic Response B.

c) Comment

The program is lacking mitigation provisions.

Response

See Generic Response D.

d) Comment

There must be an annual plan evaluation where effectiveness is measured by reduction in the loss of wetlands.

Response

See Generic Response I.

e) Comment

Permit applications should include the same information that the Corps of Engineers circulates.

Response

See response to comment 63(e).

79) Laurence P. Rozas (10/31/79)

a) Comment

The language of the LCRP is confusing and lacks specificity regarding the use of the phrase "maximum extent practicable". This term should be replaced by the phrase "best available technology."

Response

See Generic Response B.

b) Comment

The definition of water dependent activities should be clarified. The regulations should require that applicants for non-water dependent activities consider non-wetland areas as alternative development sites. The regulations should also require mitigation for water dependent projects.

Response

The definition of water dependent activities is appropriate. Guideline 6.4 states "to the maximum extent practicable" wetland areas shall not be drained or filled. Guideline 1.8 states that in the event that the modifier "to the maximum extent practicable" is used that it be shown that "there are no feasible and practical alternative locations". For mitigation, see Generic Response D.