



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
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UNITED STATES DEPARTMENT OF COMMERCE

FINAL ENVIRONMENTAL IMPACT STATEMENT

AND THE

LOUISIANA COASTAL RESOURCES PROGRAM

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and

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

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
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Office of Coastal Zone Management

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TABLE OF CONTENTS

SUMMARY	PAGE
A. Louisiana Coastal Resources Program	1
B. Changes the Program Will Make	1
C. Areas of Controversy	2
D. Issues to be Resolved	5
PART I: PURPOSE AND NEED	6
PART II: DESCRIPTION OF THE PROPOSED ACTION - THE LOUISIANA COASTAL RESOURCES PROGRAM	12
Executive Summary	16
A. Why Louisiana needs Coastal Zone Management	16
B. Louisiana's Response - Act 361	17
C. Program Completion Process	19
D. Guide to the Final Environmental Impact Statement	20
Chapter I: Overview	22
A. Introduction	22
B. Description of the Natural Environment	22
C. Renewable Resources	23
D. Nonrenewable Resources	28
E. Population	28
F. Waterborne Transportation	29
G. Federal, State and Local Roles in Managing the Coastal Zone	33
H. Issues and Problems	34
Use Problems of the Coastal Zone	34
Institutional Problems	37
Resource Problems	38
Chapter II: Program Policies and Objectives	42
A. Introduction	42
B. Coastal Use Guidelines	43
Goals for Development of the Guidelines	44
The Guideline Development Process	45
How to Use the Coastal Use Guidelines	46
Amendments to the Guidelines	50
Revised Guidelines	51
Guidelines Applicable to all Uses	52
Guidelines for Levees	55
Guidelines for Linear Facilities	56
Guidelines for Dredged Spoil Deposition	58
Guidelines for Shoreline Modification	58
Guidelines for Surface Alterations	59

TABLE OF CONTENTS

	PAGE
Guidelines for Hydrologic and Sediment Transport Modifications	61
Guidelines for Disposal of Wastes	62
Guidelines for Uses that Result in the Alteration of Waters Draining into the Coastal Waters	62
Guidelines for Oil, Gas and other Mineral Activities	63
Guideline Definitions	64
C. Other State Policies Incorporated into the Program	66
Chapter III: Boundary	68
A. Introduction	68
B. Louisiana Coastal Zone Boundaries	70
C. Excluded Federal Lands	71
Chapter IV: Organization and Authorities	74
A. Introduction	74
B. Organizational Responsibilities for Program Implementation	74
C. Methods of Program Implementation	80
D. Acquisition of Property	96
E. Memoranda of Understanding	96
F. Joint State and Corps of Engineers Permitting Process	100
G. Coordinated Permit Process	101
Chapter V: Special Management Areas	102
A. Introduction	102
B. Special Area Management Provisions of Act 361	102
C. Existing Special Areas	104
D. Other Potential Special Management Areas	108
Chapter VI: National Interest, Federal Consistency and Uses of Regional Benefit	117
A. Consideration of the National Interest	117
Introduction	117
Act 361 and the National Interest	118
Description of National Interests	119
B. Federal Consistency	133
Introduction	133
Procedures for Consistency Review	134
Standards for Determining Consistency	134
Federal Activities Including Development Projects	137
Uses of Regional Benefit	143

TABLE OF CONTENTS

	PAGE
Chapter VII: Program Objectives and Action Items	147
PART III: ALTERNATIVES TO THE PROPOSED ACTION	151
PART IV: DESCRIPTION OF THE AFFECTED ENVIRONMENT	158
PART V: ENVIRONMENTAL CONSEQUENCES	160
Probable Impacts of the Proposed Action on the Environment	161
Direct Effects of Federal Approval	161
Indirect Effects of Federal Approval	164
LIST OF PREPARERS	187
Appendices:	
a. References	a-1
b. Act 361	b-1
c. Rules and Regulations	
1. Rules and Procedures for Coastal Use Permits	c1-1
2. Rules for Approval of Local Program	c2-1
3. Rules for Public Hearings	c3-1
4. Rules for Special Areas	c4-1
5. Rules for Hearing of Appeals	c5-1
6. Definitions	c5-1
d. Shoreline Access and Protection	d-1
e. Energy Facility Planning Process	e-1
f. Shoreline Erosion	f-1
g. Public Involvement	g-1
h. Federal Consultation	h-1
i. Annotated Bibliography of Work Products	i-1
j. Revised Boundary, Louisiana Coastal Zone	j-1
k. LCC Membership	k-1
l. State Constitutional and Statutory Provisions Incorporated into the LCRP	l-1
m. Additional Definitions	m-1
n. Memoranda of Understanding	n-1
o. Draft Memorandum of Understanding, Corps of Engineers	o-1
p. Response to Comments Received on Draft Environmental Impact Statement (published as a separate Appendix)	p-1

LIST OF FIGURES

FIGURE		PAGE
1	Vegetation Map	24
2	Relationship Between Fisheries Yields and Intertidal Areas for the Gulf of Mexico	26
3	Boundary Map	69
4	Superport Special Area	106

TABLES

TABLE		PAGE
1	Findings Necessary for Section 306 Approval	10
2	Dates for Program Completion Process	20
3	Agricultural Acreage for Coastal Parishes	27
4	Louisiana Ports-Waterborne Commerce of Rivers, Bayous and Waterways	30
5	Approximate Acreage of Major Federally Controlled Lands in the Louisiana Coastal Zone	73
6	Financial Assistance to Local Governments	88
7	National Interest Facilities	120
8	Resources in Which There is a National Interest	120
9	Federal Consistency Procedures	135
10	Federal Licenses and Permits Subject to Certification of Consistency	139
11	Impact of Government Action on Property Values	169

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 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 Regional Council
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
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
Isaak 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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Former Representative David Treen
Representative Robert Livingston
Representative Gillis Long
Representative Hanson Moore

Senator J. Bennett Johnston
Senator Russell Long

Interested Citizens

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*Floris M. Relfe
*Lawrence P. Rozas

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 programs 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 are 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 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 resolve 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 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 1.3 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 1.3 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 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, Part III of this document 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.

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-making.
- ° 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 States, 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 of 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 23, 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 involves 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 \$778,000 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 Lafourche 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 Resources Program under Section 306 of the federal 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 requirement for a 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:

- whether the Louisiana program is consistent with the objectives and policies of the national legislation;
- whether the award of federal funds under Section 306 of the CZMA will help Louisiana meet those objectives;
- whether the state's management authorities are adequate to implement the LCRP; and
- 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 parties 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 Regulations</u>	<u>Source</u>
3. 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
c. 306(c), which includes:		
306(c)(1): Notice: full participation consistent with Sec. 303....	923.3, 923.51, 923.55 and 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
cc. 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 Regulations</u>	<u>Source</u>
Sec. 306(e), which includes:		
306(e)(1): Technique of control.....	923.42 - 923.44	Chapter IV
306(e)(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



State of Louisiana

EXECUTIVE DEPARTMENT

Baton Rouge

August 5, 1980

DAVID C. TREEN
GOVERNOR

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:

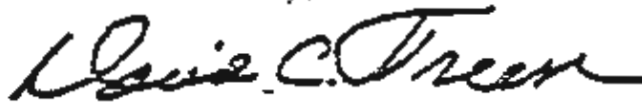
- a. In order to consolidate the environmental resource responsibilities within the state, I have, by Executive Order 80-15 of July 8, 1980 (attached), transferred the Louisiana Coastal Zone Management Program from the Office of the Secretary of the Department of Transportation and Development to the 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, reading "David C. Treen". The signature is fluid and cursive, with the first name "David" being more prominent and the last name "Treen" following in a similar style.

David C. Treen

DCT/db

STATE OF LOUISIANA
EXECUTIVE DEPARTMENT
BATON ROUGE

EXECUTIVE ORDER NO. 30-15

- BE EAS, the state and local Coastal Resources Management Act of 1978 created the Louisiana Coastal Zone Management Program; and
- BE EAS, Louisiana Revised Statute 49:213.3(7) vests the authority of this Act in the Secretary of Transportation and Development; and
- BE EAS, 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

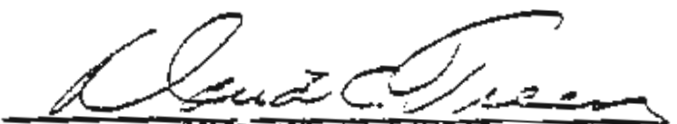
WHEREAS, there is a need to consolidate the environmental resources responsibilities within the state, thereby increasing the efficiency of management and assure conformity of action between environmental agencies; and

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

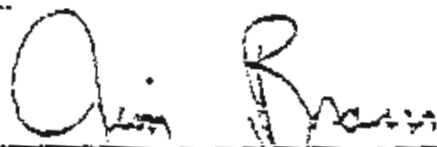
NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the power vested in me, pursuant to the Constitution and applicable statutes of the State of Louisiana, do hereby transfer The Louisiana Coastal Zone Management Program, as contained in Louisiana Revised Statute 49:213.1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

EXECUTIVE SUMMARY

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 tangle of 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 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." The Act further requires that states 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 consists of 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 states 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 benefits. 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 the 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, area-wide, 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 definitions; 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 mighty 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 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

Turkey Island above five feet in elevation with upland vegetation. The coastal zone boundary is close to the juncture of the Pleistocene terraces and coastal wetlands. Upland vegetation such as pine (*Pinus sp.*) and oak (*Quercus sp.*) is characteristic in Southeastern Louisiana. In Southeastern Louisiana, coastal prairie and cultivated rice fields are predominant. Isolated remnants 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 Deer 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 inter-distributary basins and flanks the alluvial ridges. The swamp vegetative zone is concentrated around Lake de Cade, west of Lake 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 discrete 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 hamiltonii*), water hyacinth (*Eichhornia crassipes*), pennywort (*Pennywort sp.*), pickering-weed (*Pontederica cordata*), alligatorweed (*Alternanthera philoxeroides*), cattail (*Typha sp.*) and bulblounge (*Sagittaria sp.*).



Intermediate Marsh - Typical vegetation is wiregrass (*Sporobolus patens*), deer pine (*Vigna repens*), bulblounge, wild millet (*Echinochloa polystachya*), bulblounge (*Sagittaria californica*) and sawgrass (*Cladium jamaicense*).



Brackish Marsh - Typical vegetation is wiregrass, mussel-covered grass (*Scirpus olivaceus*), coar (*Scirpus robustus*), saltgrass (*Distichlis spicata*) and black rush (*Juncus roemerianus*).



Saline Marsh - Typical vegetation is wiregrass (*Sporobolus patens*), glasswort (*Salicornia sp.*), black rush, saltgrass, saltwort (*Salis maritima*) and black mangrove (*Avicennia nitida*).



MODIFIED WETLANDS

These are areas of marsh or swamp that have been leveled, 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 portion of Orleans and Jefferson Parishes), partially drained (e.g., various drainage districts), only slightly modified (e.g., marsh 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 a 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, 23 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).

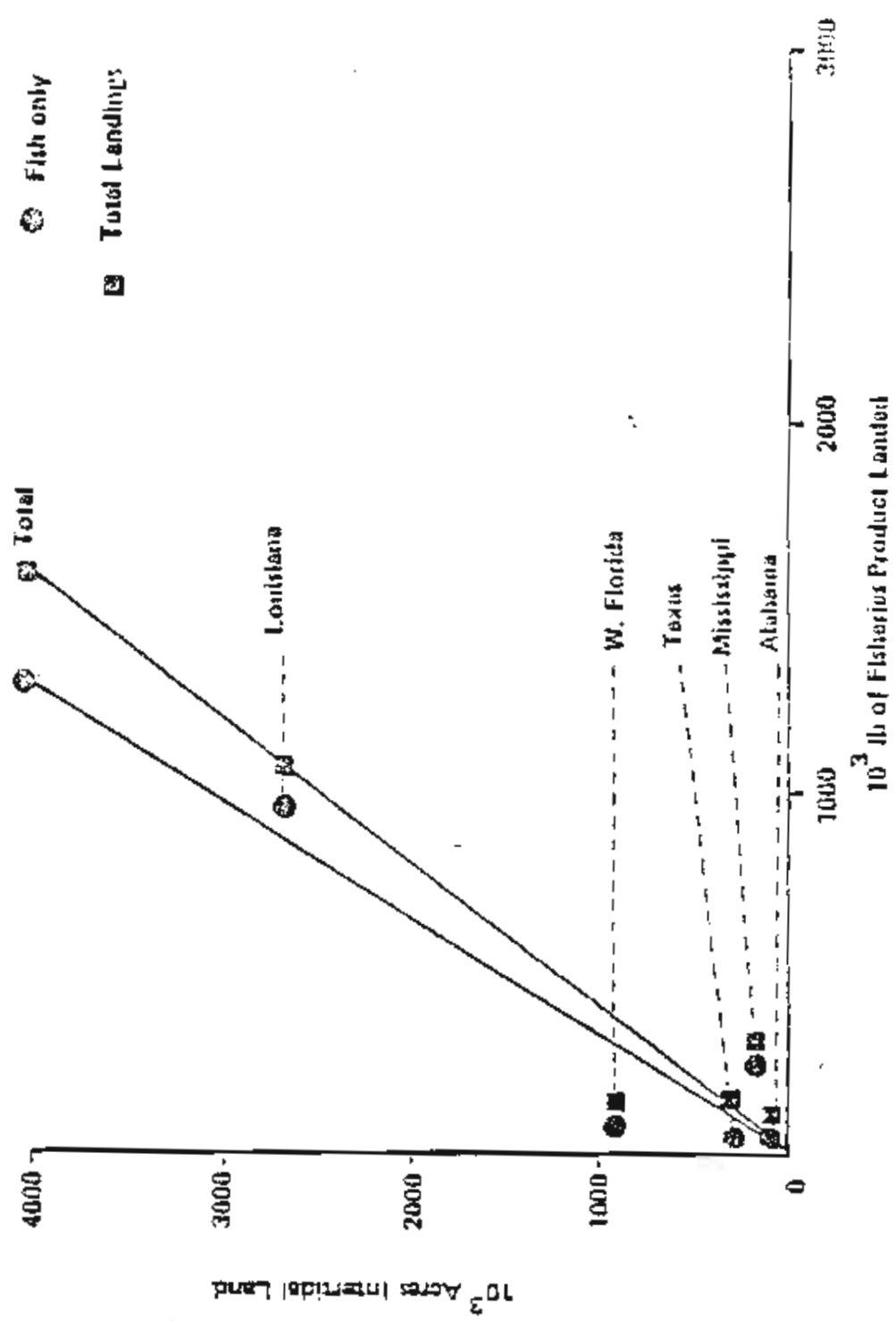
Wildlife depends for survival on adequate food, water and shelter—not only for protection from the elements and enemies, but as an area conducive to reproduction and the successful growth of the young. Deprived of such a habitat, a species' chances for survival are negligible.

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 SHORELINE VALUES AND WETLAND 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 now utilized for urban purposes. Urban expansion is spilling into agricultural land in many coastal communities bordering Bayou Lafourche 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 erosion 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	5,596
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	104,391
Orleans	7,381	Tangipahoa	172,653
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 is a major petroleum and natural gas producer. In 1976, 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 (Mumphrey, 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 New 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 Saratoga 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 channels. The principal commodities, in terms of tonnage, on both 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	2nd in U.S.
Baton Rouge	66,703,000	4th in U.S.
Lake Charles	20,221,000	27th 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	\$ 23,349,000,000
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 Canes 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	10,105,000
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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
Vinton Waterway	3,000
*Empire to Gulf	923,000

TOTAL	9,397,000
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*GULF INTRACOASTAL WATERWAYS	78,070,000
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GRAND TOTAL.....	110,537,000
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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 decree, 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 by 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.

The State Role

Activities such as mineral extraction, industrial development, fisheries and wildlife management, navigation, flood control and hurricane protection, recreation, agriculture, urban development, and forestry are overseen, either directly or indirectly, by a number of state agencies. Twenty-three state agencies, in varying degrees, take part in management. At present, state agencies frequently oversee only one resource or one facet of one resource.

The Local Role

Local governments derive their powers to adopt regulations for zoning subdivision and historic preservation from Article 6, Section 17, of the Louisiana Constitution of 1974. Approximately 30 percent of the coastal parishes have zoning ordinances. Approximately 60 percent of the coastal parishes have subdivision regulations.

Parishes are given an opportunity to issue "letters of no objection" to Corps permits within their jurisdiction. This procedure is discussed above in the section on the federal role.

H) ISSUES AND PROBLEMS

1) Use Problems of the Coastal Zone

Flooding and Hurricane Protection

The people of coastal Louisiana have suffered great loss of life and property because of floods and hurricanes. This danger continues, according to a recent report by the National Oceanic and Atmospheric Administration (NOAA). The NOAA report indicates that the potential for catastrophic disaster is increasing. According to the report the rapid urbanization of the coastal zone is resulting in greater numbers of people living in high hazard areas, thereby increasing the need for appropriate protection measures and means of evacuation. In addition, lack of public awareness concerning natural systems and the intensity and frequency of the risks and impacts of flooding and hurricanes adds greatly to the problem.

Failure to Consider Resource Constraints

The coastal zone of Louisiana contains many different kinds of landscape, including open waters, swamps, marsh, prairies, and uplands. These resources vary in their suitability for development.

There is a need for a consistent and extensive program to help users evaluate the type of location and its suitability for their particular use. This will not only reduce detrimental impacts on coastal areas; but will help the coastal community better utilize its resources in the most productive manner.

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. Directional drilling techniques, where 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 net 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 or stored liquid 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 size 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 30 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 archeological 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 30,000 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 islands 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, salt-water intrusion, impoundments, leveeing, and channel dredging (LACCMR, 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 213.8(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 213.8 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:

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

- o OC/DNR issuance of in-lieu permits.
- o DNR review and approval of local coastal programs.
- o Local government issuance of coastal use permits subject to a coastal use permit system administered pursuant to an approved local plan.
- o DNR and in certain instances gubernatorial review of the activities of state agencies, local governments and deep water ports for consistency with the LCRP.
- o 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 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."

The Guideline Development Process

The process for adoption of the Coastal Use Guidelines is established by Section 213.3(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 Departments 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 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 Committees 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 option 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 1 into the Coastal Resources Program. 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 on the proposed use itself, the applicant's needs 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 1.3. The purpose of guideline 1.3 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 1.3, 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 guideline.

But, in other cases it may not meet the standard; it is these remaining cases to which the three-part test provided for in guideline 1.3 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:

- (1) "The benefits resulting from the use would clearly outweigh the adverse impacts that would result from noncompliance with the modified standard", and
- (2) "There are no feasible and practical alternative locations, methods, or practices for the use that are in compliance with the modified standard", and
- (3) 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 issue". 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 of 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 213.8(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 LCRRP 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 of 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 interests 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 of 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 cultural 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 points, 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 dependent.

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; nor 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 nor 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 area'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 3.13 All pipelines shall be constructed in accordance with parts 191, 192, and 195 of Title 49 of the Code of Federal Regulations, as amended, and in conformance with the Commissioner of Conservation's Pipeline Safety Rules and Regulations and those safety requirements established by La. R.S. 45:408, whichever would require higher standards.

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 technique 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 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 using 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 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 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 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 enhance those areas suitable for development pursuant to the State plan;
- b) they are consistent with the other guidelines; and
- c) they are consistent with all relevant adopted state, local and regional plans.

Guideline 6.4. The State plan

Guideline 6.4.1 Projects in the most sensitive practicable wetland areas shall not be drained or filled. An improved drain or fill project shall be designed and constructed using the most practical techniques to minimize present and future erosion, sedimentation, and adverse environmental impacts.

Guideline 6.4.2 Projects in areas dependent uses shall be given special consideration in determining the range of their reduced choice of alternatives.

Guideline 6.4.3 Areas disturbed by surface alteration activities shall, to the maximum extent practicable, be revegetated, refilled, cleaned and restored to their pre-alteration condition upon termination of the use.

Guideline 6.4.4 The clearing shall to the maximum extent practicable be limited to those areas immediately required for physical development.

Guideline 6.4.5 Surface alterations shall, to the maximum extent practicable, be located away from riparian wildlife areas and vegetation areas. Alterations in wildlife resources and management areas shall be conducted in strict accord with the requirements of the wildlife management body.

Guideline 6.4.6 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 marine species breeding or spawning areas, or in important migratory routes.

Guideline 6.4.7 The creation of low dissolved oxygen conditions in the water or traps of low dissolved oxygen shall be avoided to the maximum extent practicable.

Guideline 6.4.8 Sand and shell dredging shall be carried out utilizing the best practical techniques to minimize adverse environmental impacts.

Guideline 6.4.9 The creation of underwater obstructions which adversely affect bottom 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 source.

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. L. 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.

Hydrological 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 ground-water 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 or 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 213.3A 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 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."

The constitutional provisions and other statutory provisions, regulations, and management and regulatory programs incorporated into the LCRP are identified and described in Appendix I. 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

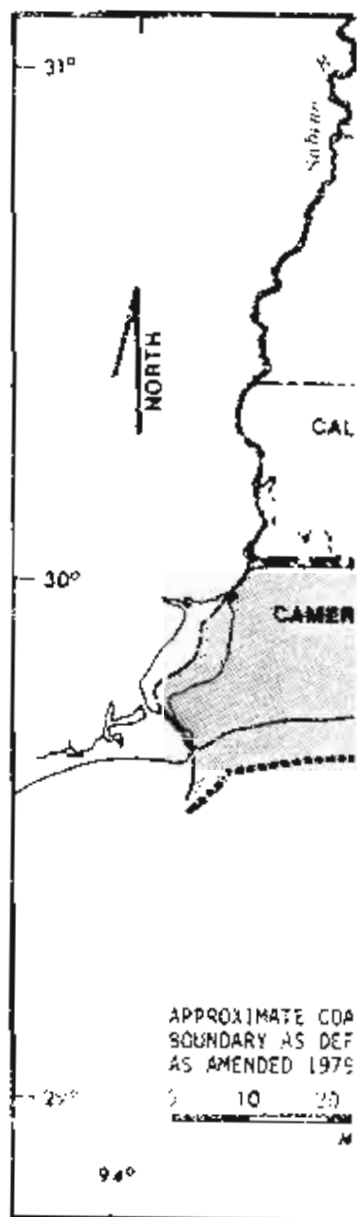
Section 305(b)(1) of the Coastal Zone Management Act of 1972, as amended, requires the management program for each coastal state to include an identification of the boundaries of the coastal zone subject to the management program. Federal coastal zone management program approval regulations, 15 C.F.R., 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 States 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.



3) 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 set forth in 15 C.F.R., Sections 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 features, 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 3.3 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 counties 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 States 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 202,193 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 organizational 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).

Development and Review of Local Coastal Programs

DNR is responsible for the orderly development, review, approval and administration of local coastal programs pursuant to Section 213.9(B), (D).

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 213.9(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.

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 213.7(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 Parish; 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, or, following rejection 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 receive 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 213.3(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 into 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 (DHER)

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 historic 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)(B)). The principal means of implementing the program will be the direct state control technique. DNR and other

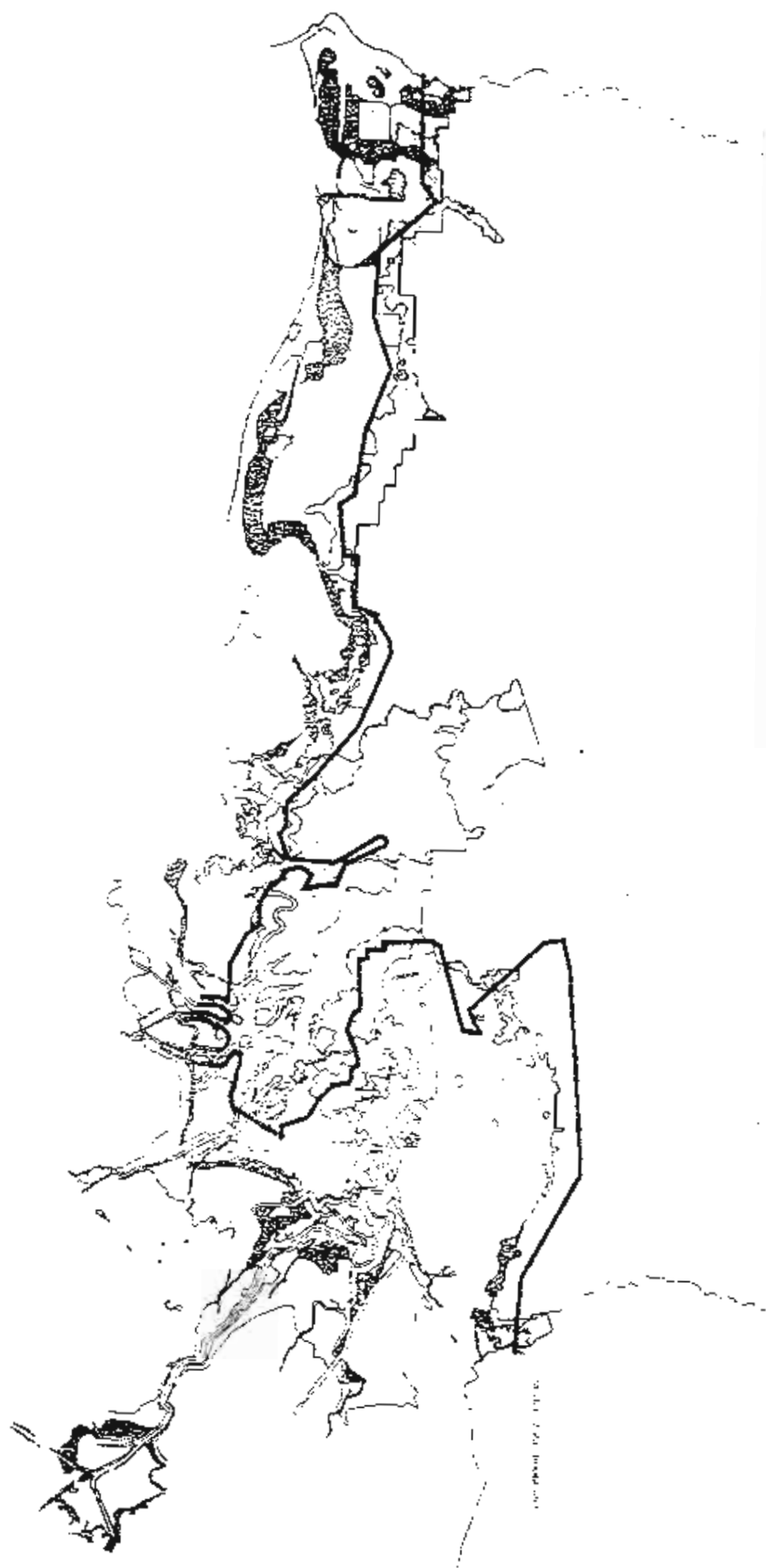


Figure 1

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. Complementing the implementation of 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 c1 of this document. Of principal importance to the implementation of the coastal use permit program are the following rules:

Appendix c1

- 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 213.5(C) of the Act.

Appendix c2

- rules for the development and approval of local programs pursuant to Section 213.9(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, oysters, 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(G) 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 associated 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 cattledwalks.
- (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 use 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 DNR 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 c1, 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 c1, 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 1976-1977. Table 6 indicate 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 361 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 objectives 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 ci.

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 comment 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 aspects 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, any 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 days 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 a 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 361). 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 minerals and permits issued pursuant to existing statutory authority by the DNR 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 1 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 3 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 with 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 B.

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 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 states 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) MEMORANDA OF UNDERSTANDING

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 of 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(5) 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), 4(C)(15) 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-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 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 13.13(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 water-bottoms 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 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, 3 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 to 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 of 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 applications 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. CMS/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-OEA/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.