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Revised August 3, 1976

Offshore Terminal Authority

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ENVIRONMENTAL PROTECTION PLAN

of the

LOUISIANA OFFSHORE TERMINAL AUTHORITY

(LOUISIANA SUPERPORT AUTHORITY)

As originally adopted on January 15, 1974 (effective January 26, 1974), and as amended on September 30, 1975 (effective October 20, 1975), and as further amended on August 3, 1976 (effective August 20, 1976).

Louisiana Offshore Terminal Authority
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OFFSHORE TERMINAL AUTHORITY

(An Agency of the State of Louisiana, created by Act 444 of 1972, as amended [La. R.S. 34:3101-3116].)

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of the
OFFSHORE TERMINAL AUTHORITY
STATE OF LOUISIANA

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ENVIRONMENTAL PROTECTION PLAN
OF THE OFFSHORE TERMINAL AUTHORITY
STATE OF LOUISIANA

CHAPTER I

INTRODUCTION

Section 1 - Scope and Purpose

a. State Law

(1) Act 444 of the Louisiana Acts of 1972, as amended by Act 358 of 1974, (La. RS 34:3101-16)*/ (herein called the "Act") created the Offshore Terminal Authority (herein called the "Authority") and provided that it should be vested with "exclusive and plenary power to issue licenses, certificates and permits, and otherwise regulate all phases of the construction and operation by any person of offshore terminal facilities within the jurisdiction of the Authority" and "to promote, plan, finance, develop, construct, control, license, regulate, supervise, operate, manage, maintain and/or modify offshore terminal facilities within the jurisdiction of said Authority". (RS 34:3109G and 3101A). The Act is attached as Appendix A.

(2) Under the Act, the Authority is "empowered to take all necessary steps to protect Louisiana's unique coastal environment from any short-term or long-term damage or harm which might occur from any

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*/ Subsequent references to Louisiana Revised Statutes are to "RS".

aspect of the Authority Development Program". (RS 34:3109D).

(3) The Act gives the Authority "exclusive jurisdiction over the Authority Development Program within the coastal waters of Louisiana, the areas of the State extending seaward thereof to the extent of the State's rights thereto, and over such other waters, water bottoms, wetlands and lands within the territorial boundaries of the State necessary to effectuate the purposes of" the Act. Moreover, the Authority is given "exclusive power to own, operate, license, or otherwise regulate all offshore terminal facilities within its jurisdiction." (RS 34:3101).

(4) The Act provides that among the purposes of the Authority are "to protect environmental values and Louisiana's unique coastal marshland ecosystem through the adoption of an environmental protection plan" and "to assert and protect Louisiana's economic, social and environmental interests in the development of any offshore terminal facilities outside the State of Louisiana where such development may have an impact upon the State of Louisiana." [RS 34:3101B(5) and (6)].

(5) Pursuant to Section 3113 of the Act, entitled "Environmental Protection Plan", and in accordance with the rule-making procedures of the Louisiana Administrative Procedure Act (RS 49:951-66), and the General Rules and Regulations of the Offshore Terminal Authority, the Authority adopts the within Environmental Protection Plan

(herein called the "Protection Plan"), as a rule and regulation of the Authority. (RS 34:3113C).

(6) This Protection Plan which is "an integral part of the authority development program" and which shall be applicable to any offshore terminal facilities within the jurisdiction of the Authority, "establishes those steps to be followed to insure the protection of the environment throughout all phases of the Authority Development Program." [RS 34:3102(3), 3113A and 3113G].

b. Federal Law

(1) Under the Deepwater Port Act of 1974, PL 93-627 (33 USC 1501 et seq.) (herein called the "Deepwater Port Act"), the Secretary of Transportation is authorized and empowered to license any "deepwater port", which is defined to include ". . . components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark."

(2) The Deepwater Port Act, which is expressly stated to "protect the interests of . . . adjacent coastal States in the location, construction and operation of deepwater ports", and to "protect the rights and responsibilities of States . . . to regulate growth, determine land use, and otherwise protect the environment in accordance with law", makes the law of the nearest adjacent coastal State, now

in effect or hereafter adopted, amended, or repealed, applicable to a deepwater port "to the extent applicable and not inconsistent with any provision or regulation under [the Deepwater Port Act] or other federal laws and regulations now in effect or hereafter adopted, amended, or repealed."

(3) Section 19(a)(2) of the Deepwater Port Act states that except as otherwise provided in that Act, nothing therein "shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States."

(4) Section 18(k)(1) of the Deepwater Port Act provides that it "shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil from a deepwater port or a vessel within any safety zone."

(5) Section 4(c)(10) of the Deepwater Port Act provides that the Secretary may issue a license if "the adjacent coastal state to which the deepwater port is to be directly connected by pipeline has developed, or is making . . . reasonable progress . . . toward developing, an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972."

Section 2 - Definitions

1 - "Act" means Act 444 of 1972, as amended by Act 358 of 1974

(RS 34:3101 et seq.), which establishes the Offshore Terminal Authority, and any amendments thereto.

2 - "Actual stress" means an identifiable stress which is relatively certain to occur as a natural and direct consequence of the construction and normal operation of a deepwater port and onshore facilities.

3 - "Acute" means having a sudden onset, sharp rise, and short course.

4 - "Air contaminants" means particulate matter, dust, fumes, gas, mist, smoke or vapor, or any combination thereof produced by processes other than natural.

5 - "Air pollution" means the addition of air contaminants to the atmosphere in such quantities that the then existing State or federal ambient air quality standards or emission standards would be violated.

6 - "Anaerobic conditions" means the absence of free oxygen.

7 - "Aromatic compounds" means that class of reactive hydrocarbon molecules identified by its characteristic benzene ring. Aromatic compounds typically have high solvent power in contact with other substances.

8 - "Authority" means the Offshore Terminal Authority as estab-

lished by the Act.

9 - "Authority development program" means all the phases of growth and development through which the concept of offshore terminal facilities may go, including but not limited to promoting the concept, raising funds to support the program, planning the uses of the facilities, selecting sites for facilities, designing the structures, construction or regulating the construction of facilities, operating and maintaining or regulating the operation and maintenance of the facilities, expanding or renovating or regulating the expansion or renovation of the facilities, modification and retirement or regulating the modification or retirement of the facilities, and any other phases through which Authority development may proceed.

10 - "Barrier island" means a shoreline island, separating an estuary from the ocean, which acts as a natural barrier against storms and marine forces.

11 - "Baseline data" means data which is used as a base or norm from which to measure changes.

12 - "Benthos" means organisms that live on or in the bottoms of bodies of water.

13 - "Biological oxidation" means the natural process of decay or destruction of organic materials by the action of microbes.

14 - "Board of Commissioners" means the governing body of the Authority as established by the Act.

15 - "Brine" means water saturated or strongly impregnated with salt.

16 - "Brine storage area" means a recirculation holding pit used in conjunction with oil transfers to and from salt cavern storage.

17 - "Cap rock" means an impervious body of anhydrite and gypsum which overlies the top of a salt dome.

18 - "Cathodic protection" means a corrosion protection system wherein the flow of current from anodes to cathodes of corrosion cells is prevented by means of galvanic anodes or impressed current.

19 - "Check-off list or procedures" means a prepared list or procedure on which each item must be checked or initialed as being completed before proceeding to the next item.

20 - "Chronic" means marked by long duration or frequent recurrence.

21 - "Compensation" includes rehabilitation, restoration, and reparation.

22 - "Decision" or "order" means the whole or any part of the final disposition (whatever its form, whether affirmative, negative,

injunctive, or declaratory) of the Authority, in any matter other than rule-making, required or permitted by constitution or statute to be determined on the record after notice and an opportunity for an Authority hearing.

23 - "Deepwater port" means any fixed or floating manmade structure other than a vessel, or any group of such structures, located beyond the territorial sea and off the coast of the United States and which are used as a port or terminal for the loading or unloading and further handling of oil for transportation to any State, except as otherwise provided in Section 23 of the Deepwater Port Act. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys and similar appurtenances to the extent they are located seaward of the high water mark.

24 - "Deepwater Port Act" means P.L. 93-627 (33 USC 1501 et seq), and any amendments thereto.

25 - "Detritus" means loose particles, formed by the disintegration of organic matter, which serve as a food source for aquatic species.

26 - "Development corridor" means existing land corridors which are already developed for human habitation, commercial or industrial activity, or transportation.

27 - "Discharge" includes, but is not limited to, any spilling,

leaking, pumping, pouring, emitting, emptying, or dumping.

28 - "Dispersant" means an active surface agent which causes an oil film to break up because of the formation of fine oil droplets, which are more susceptible to natural degradation.

29 - "Emulsifier" means an active surface agent which promotes the formation and stabilization of an emulsion.

30 - "Emulsion" means a system consisting of a liquid dispersed in an immiscible liquid.

31 - "Environmental Director" means the person employed by the Authority to assist in the administration of the Protection Plan.

32 - "Environmental Protection Plan" (hereinafter "Protection Plan") means a written document prepared in conformity with the Act, which shall be a regulation of the Offshore Terminal Authority, which establishes those steps to be followed to insure the protection of the environment throughout all phases of the Authority development program and which shall be applicable to any offshore terminal facilities within the jurisdiction of the Authority.

33 - "Erosion" means the natural destruction or wearing away of terrestrial surfaces by the action of water and wind.

34 - "Executive Director" means the Executive Director of the

Authority chosen by the Board of Commissioners as provided for in the Act.

35 - "Feeder pipeline" means an ancillary oil-transportation pipeline which is connected with, or tapped into, offshore terminal facilities within the Authority's jurisdiction.

36 - "Fund" means the Louisiana Environmental Protection Fund.

37 - "Garbage" means waste edible material generated by the preparation of food for human consumption or the disposal of uneaten food.

38 - "Hazardous substance" means any substance designated as such pursuant to the Federal Water Pollution Control Act and any amendments thereto.

39 - "Littoral current" means a current located near and generally parallel to the shoreline of an ocean, lake, or other large body of water.

40 - "Littoral drift" means material that moves in the littoral zone under the influence of waves and currents.

41 - "Manifold" means a junction of several pipes and/or hoses.

42 - "Major oil spill" means a discharge of oil of more than 10,000 gallons to the inland waters or more than 100,000 gallons in

coastal waters.

43 - "Mooring master" means an individual holding a masters certificate, experienced in the operation of bulk cargo vessels who is responsible [without diminishing the ultimate responsibility of a vessel master] for berthing, unloading bulk cargo, or oil transfer and de-berthing operations.

44 - "Mudlump" means a topographic expression on the surface of a seabed resulting from deposition of thick localized masses of heavier bar sediments directly upon lighter, plastic clays and subsequent diapiric action.

45 - "National Contingency Plan" means the National Contingency Plan for removal of oil and hazardous substances, prepared pursuant to section 11(c)(2) of the Federal Water Pollution Control Act.

46 - "Navigational fairway" means a navigational open path or approach or departure corridor for vessels using a deepwater port facility.

47 - "Offshore terminal facilities" means a structure, a series of structures, or facility of any type and placed within the coastal waters of Louisiana or seaward thereof and designed to accommodate the cargoes or passengers of deep draft vessels whose draft is greater than the depths of typical inland harbors and waterways, commonly used

by oceangoing traffic during the first half of the twentieth century, including all pipelines, structures, and facilities directly related thereto and necessary or useful to the operation thereof whether landward or seaward of the main structure or facility itself. Offshore terminal facilities shall include deepwater port and onshore facilities.

48 - "Oil" means petroleum, crude oil, and any substance refined from petroleum or crude oil.

49 - "Oil spill" means the discharge of oil into or upon the navigable waters of the United States, adjoining shorelines or wetlands, or into or upon the waters of the contiguous zone

50 - "Oil spill cleanup agent" means any substance applied to oil on water or associated shoreline, the function of which is to disperse, remove or otherwise control the oil.

51 - "One-hundred year storm" means the maximum storm which can be expected to occur at a frequency of once per one hundred years, based on past observations and frequency of occurrence.

52 - "Onshore facility" means all pipelines, structures, and facilities functionally related to, and landward of, a deepwater port and necessary and useful to the operation thereof.

53 - "Operational and contingency plan" means a written document,

and any amendments thereto, prepared in accordance with the requirements of the Protection Plan.

54 - "Outdoor burning" means burning of any material without the benefit of equipment primarily designed for the combustion of fuel and/or waste material and/or in such a manner that the products of the combustion are emitted directly to the atmosphere.

55 - "Owner or operator" means any person owning or operating a vessel, deepwater port or onshore facility within the jurisdiction of the Authority, whether by statute, rule or regulation, license, lease, contract, or any other form of agreement.

56 - "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

57 - "Person in charge" means the person on the scene who has operational responsibility for a deepwater port, platform complex, onshore facility, or vessel associated with a deepwater port from which oil or other pollutants are discharged when the discharge occurs.

58 - "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character, other than the Authority.

59 - "Photosynthesis" means the formation of carbohydrates and

oxygen in the chlorophyll-containing tissues of plants exposed to light.

60 - "Platform" means a fixed structure which rests on or is embedded in the seabed that has floors or decks in which an activity or specific function may be carried out.

61 - "Platform complex" means offshore platforms containing, inter alia, transfer pumps, metering equipment, navigation control equipment, communications equipment, holding tanks, and quarters for offshore crew.

62 - "Pollutants" shall include, but not be limited to, oil of any kind and in any form, gasoline, pesticides, ammonia, chlorine, all hazardous substances, and all other substances which are alien to the area or areas that may be affected by such substances.

63 - "Pollution" means a discharge or deposit into any of the waters or wetlands within the Authority's jurisdiction, or which ultimately comes within any such areas, of any liquid, gaseous, or solid substance or substances which may create a nuisance therein or render such areas unclean or noxious to such extent as to be detrimental to the propagation, cultivation, or conservation of animals, birds, fish, or aquatic life, or unsuitable with reasonable treatment for use as present or possible future source of public water supply, or unsuitable for commercial, industrial, agricultural, recreational, or other

reasonable uses. It shall also include the discharge or deposit of any substance which, because of its temperature, is detrimental to, or unsuitable for, any of the above described uses.

64 - "Positive shutoff valve" means a mechanical device to regulate liquid flow through a pipeline or hose system, and capable of positively stopping flow when activated by automatic and/or manual means.

65 - "Potential stress" means an identifiable stress which could occur as a natural and direct consequence of the construction and operation of a deepwater port and onshore facilities, although all reasonable precautions against such an eventuality have been taken (for example, fires, explosions, or oil spills).

66 - "Protection Plan". See Environmental Protection Plan.

67 - "Receiving terminal" means storage facilities and associated equipment for the receipt and storage of liquid hydrocarbons. Facilities may include above ground steel tanks and/or storage caverns in salt domes.

68 - "Regional Contingency Plan" means the regional plan for the removal of oil and hazardous substances for the Sixth Coastal Region published pursuant to the National Contingency Plan.

69 - "Reinforced construction" as applied to a transfer hose,

means a hose composed of many plies of fabric, wire, and synthetic rubber, then wrapped with high-tensile steel wire imbedded in synthetic rubber. Non-reinforced hoses are constructed without the steel-wire wrapping.

70 - "Rule" means each Authority statement that implements, interprets or prescribes substantive law or policy, or prescribes the procedure or practice requirements of the Authority. The term includes the amendment or repeal of a prior rule, but does not include (A) statements concerning only the internal management of the Authority and not affecting private rights or procedures available to the public; or (B) intra-agency memoranda.

71 - "Safety zone" means the safety zone established around a deepwater port as determined by the Secretary of Transportation in accordance with Section 10(d) of the Deepwater Port Act.

72 - "Salt cavern" means an underground cavern within a salt dome for the storage of oil or brine.

73 - "Salt dome" means a diapiric or piercement salt structure with a central, nearly equidistant salt core which has risen through the enclosing sediments from a mother salt bed beneath the top of the core.

74 - "Saltwater intrusion" means the intrusion of salt water

into other bodies of water causing a measurable increase in salinity.

75 - "Sanitary waste" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

76 - "Secondary development" means development of those processing facilities and other industries associated with the bulk commodity, and the associated urbanization which may occur.

77 - "Service vessel" means a vessel providing support or service to a deepwater port, onshore facilities, and to vessels delivering cargo and personnel to these facilities.

78 - "Solid wastes" means solid waste material including, but not limited to, plastics, cans, paper, scrap metal, and boxes.

79 - "Solution mining" means the in-place dissolution of water-soluble salts with a leaching solution.

80 - "Spill prevention control and countermeasure plan" means a plan prepared pursuant to the Environmental Protection Agency regulations set forth in 40 CFR § 112.3 et seq., as amended by 39 FR 31602, August 29, 1974.

81 - "Spoil" means earth and rock which has been excavated or dredged.

82 - "Stress" means a force or influence imposed upon the natural or human environment as a result of the Authority development program. Stress also includes any state resulting from the imposition of a force or influence in which natural or human processes or conditions have been changed. Stress may be referred to as an "impact" or "effect". When stress is used as a test for loss to the environment it means the same as provable damage.

83 - "Substrate" means a substance, base, or nutrient on which an organism grows.

84 - "Submarine slumping" means sea floor slides caused by the instability of poorly consolidated deltaic sediments.

85 - "Subsidence" means the sinking or settling of land, or the gradual lowering of land with respect to sea level.

86 - "Three Directors" means the Executive Director of the Authority as provided for in the Act, and the Director of the Louisiana Wild Life and Fisheries Commission, and the Director of the Louisiana State University Center For Wetland Resources.

87 - "Tidal Pass" means a natural channel which permits interchange of water between an estuary and the open sea, and provides a migration route for aquatic species.

88 - "Transfer hose system" means the hoses and associated fit-

tings and connections through which oil is transferred between a bulk cargo carrier and the manifold of the monobuoy system.

89 - "Transfer" includes both onloading and offloading between a deepwater port and vessels, a deepwater port and onshore facilities, and vessel to vessel.*/

90 - "Treatment facility" means a system or device to separate and remove contaminants from waste water or to convert other liquid wastes into environmentally acceptable substances.

91 - "Turbidity" means a condition of darkened or reduced clarity of water caused by the presence of suspended material.

92 - "Vessel" means every description of watercraft or other artificial contrivance used as a means of transportation on or through water.

93 - "Volatile vapors" are those petroleum fractions which tend to vaporize at ambient temperatures and pressures.

94 - "Wetlands" means lowland areas, including natural levees, cheniers, beach areas, marshes, swamps, and other low lying areas, characterized by a high degree of soil moisture, which are periodically or permanently covered with water.

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*/ This definition is not intended to go beyond the scope of the Deepwater Port Act.

Section 3 - General Provisions

a - This Protection Plan applies to all phases of the Authority development program, and the details of this Protection Plan shall be followed in all respects by the Executive Director in carrying out any phase of the Authority development program including the licensing and regulation of any person who may construct and operate offshore terminal facilities within the jurisdiction of the Authority. (RS 34:3102(2)(3) and 34:3113A).

b - The Authority is authorized to negotiate and enter into contracts or agreements with any public or private individual, or corporation, for the construction and operation of a petroleum terminal as an interstate common carrier. (RS 34:3109F). Any such contract shall constitute an aspect of the Authority development program.

c - The Protection Plan, formulated by the three Directors, with the advice and consent of the Board of Commissioners, may be amended, in accordance with the provisions of the Louisiana Administrative Procedure Act and the Authority's General Rules and Regulations, to reflect changes in the Authority development program. Initiation for changes may come from any of the three Directors, the Board of Commissioners, or any interested person. (RS 34:3113 B and E).

d - In preparing any amendment to the Protection Plan, the three Directors shall make every effort to reach a consensus. If they are

unable to agree, each shall proffer his proposal and present it to the Board of Commissioners for its consideration. Each of the three Directors shall present detailed comments and recommendations to the Board of Commissioners. After receiving and studying the comments and recommendations, the Board of Commissioners shall decide which proposal, or combination of proposals, shall be adopted and promulgated. (RS 34:3113F).

e - The best talent available shall be sought to perform the studies and surveys necessary to develop an environmental protection plan and carry out its requirements in accordance with the Act. To the extent possible, university based public and private researchers in Louisiana shall be utilized (RS 34:3113H).

f - In all cases, research in support of the Protection Plan shall be coordinated by agreement of the three Directors. (RS 34:3113H).

Section 4 - Requirements of Protection Plan

a - The Act states that the Protection Plan shall contain specific provisions implementing the following statutory requirements (Sections 3113J and I):

> "(1) Summarize the salient feature of an inventory of all potential and actual stresses on the natural and human environment which can reasonably be expected to occur in pursuing the Authority Development Program. Consideration

shall be given to stresses which have occurred in other parts of the country and the world where similar functional operations were being performed. Consideration shall be given to the peculiarities of Louisiana's coastal environment. The inventory of potential and actual stresses shall include a prediction of the stress on the coastal environment of major accidents, which could logically be expected to occur throughout the Authority Development Program, even though all precautions against such accidents have been taken.

"(2) Describe the essential features of existing environmental data upon which the selection of a site for a Deep Draft Harbor and Terminal may be based. Indicate how this data has been analyzed and compared with the inventory of potential and actual stresses required in the above Paragraph, so that the site selected will result in the least total stress on the environment. Indicate how economic considerations are compared with the assessed total stress on the environment to arrrive at the best economic-ecologic formula for determination of a site for the Deep Draft Harbor and Terminal. State the location and availability of the environmental data upon which these determinations are based.

"(3) State how the Deep Draft Harbor and Terminal facility design minimizes potential environmental damage, considers environmental factors as a positive part of the design, and controls long-term development so that growth and additions to the Deep Draft Harbor and Terminal do not result in random growth or in gradual environmental deterioration.

"(4) Present details of how the operational aspects of the Authority Development Program will be conducted so as to minimize environmental problems, including but not limited to a monitoring program by appropriate public or private persons selected by the board of commissioners; establishment of constructional and operational guidelines for environmental protection; strong enforcement provisions, and mechanisms to insure cleanup of accident spills by technical means, with evidence of financial responsibility to insure performance of the cleanup, and compliance with the provisions of the Environmental Protection Plan. The plan shall consider the circumstances which may justify the temporary cessation of port activities.

"(5) Provide procedures for the funding of projects to be paid for by the Authority to the Louisiana Wild Life and Fisheries Commission, or any agency designated by the governor which shall compensate the coastal environment for loss that may be sustained through the stresses on the environment created by the Authority Development Program.

"(6) Analyze ongoing programs of the federal, state and local governments designed to protect the coastal environment, so as to insure that there is no unnecessary duplication of effort, and to insure that cooperation and coordination of environmental protection measures are achieved. The opinion of all agencies with a responsibility for monitoring the coastal environment shall be sought with regard to this Environmental Protection Plan prior to its promulgation, to determine if there are incompatibilities between specific provisions of this measure and the requirements of other rules and regulations."

b - "If specific provisions cannot be set forth due to uncertainties in the Authority development program, then the Environmental Protection Plan shall state in specific terms the uncertainties which do exist at the time the plan is promulgated, and why the uncertainties would make the inclusion of specific provisions in the plan premature." (Section 3113I).[2/]

2/ The Protection Plan is designed primarily to protect the environment with respect to stresses resulting from an oil transfer facility, although deep draft dry bulk transfer facilities may be developed in the future. The basic provisions of the Protection Plan shall apply to all offshore terminal facilities within the Authority's jurisdiction, but specialized facilities developed later may require more specific provisions. The Authority may find it necessary to include additional provisions covering certain matters for which provisions cannot presently be set forth due to uncertainties in the Authority development program resulting from the absence of Federal regulations under the Deepwater Port Act. Accordingly, the Authority recognizes that amendment of several provisions of the Protection Plan may be necessary in order to set forth specific provisions in accordance with Section 3113J(1)-(6).

Section 5 - Location and Availability of Environmental Data

a - It is the policy of the Authority to make the fullest possible disclosure of information to any person upon request. All information in the Authority's possession will be made available in accordance with applicable State and Federal law.

b - To the fullest extent reasonably possible and in compliance with applicable State and Federal law, all environmental data on which this Protection Plan is based, or on which the three Directors base a recommendation which forms the basis of an Authority determination under this Protection Plan, shall be available for public inspection at the offices of the Authority in New Orleans.

CHAPTER 2

SUMMARY OF STRESSES

Section 1 - Statutory Authority

Subsection J(1) of RS 34:3113 requires that the Protection Plan set forth a summary of "the salient feature of an inventory of all potential and actual stresses on the natural and human environment which can be reasonably expected" to result from the Authority development program, consideration being given both to stresses which have occurred at similar functional operations in other parts of the world, and to "the peculiarities of Louisiana's coastal environment." Subsection J(1) also requires that the Protection Plan "include a prediction of the stress on the coastal environment of major accidents which could logically be expected to occur throughout the Authority Development Program, even though all precautions against such accidents have been taken."

Section 2 - General Provisions

Subsection 1 - Introduction.

This Chapter will identify, as precisely as possible, the actual and potential stresses on the natural and human environment, which may result from the Authority development program, based on existing environmental data, the observed operations of comparable installations elsewhere, and the peculiarities of the Louisiana coastal environment.

Subsection 2 - References.

In determining the stresses which can reasonably be expected to result from the Authority development program, and in considering stresses and accidents encountered at similar functional operations in other parts of the world, and the effect such stresses and accidents could have in light of the peculiarities of Louisiana's coastal environment, the Authority has consulted and referred to numerous studies and authorities including the following:

(a) "Louisiana Superport Studies, Report No. 1, Preliminary Recommendations and Data Analysis," Louisiana State University Center for Wetland Resources (August, 1972);

(b) "Louisiana Superport Studies, Report No. 2, Preliminary Assessment of the Environmental Impact of a Superport on the Southeastern Central Coastal Area of Louisiana," Louisiana State University Center for Wetland Resources (1972);

(c) "Louisiana Superport Studies, Report No. 3, Recommendations for the Environmental Protection Plan," Louisiana State University Center for Wetland Resources (October 31, 1973);

(d) "Louisiana Superport Studies, Report No. 4, Technical Appendices to Recommendations for the Environmental Protection Plan," Louisiana State University Center for Wetlands Resources (November, 1974);

(e) "Draft Environmental Impact Statement - Deepwater Ports," United States Department of the Interior (June, 1973);

(f) "Report on Gulf Coast Deep Water Port Facilities, Texas, Louisiana, Mississippi, Alabama and Florida," United States Army Corps of Engineers (June, 1973);

(g) "Louisiana Wetlands Prospectus," Louisiana Advisory Commission on Coastal and Marine Resources (September, 1973);

(h) "Environmental Atlas and Multi-Use Management Plan for South Central Louisiana," Louisiana State University Center

for Wetland Resources (October, 1973);

(i) "West Coast Deepwater Port Facility Study," United States Army Corps of Engineers (June, 1973);

(j) "U. S. Deepwater Port Study Volume 4, The Environmental and Ecological Aspects of Deepwater Ports," Nathan Associates (August, 1972);

(k) "Minimizing Damage to Refineries from Nuclear Attack, Natural and Other Disasters," U. S. Department of Interior, M. M. Stevens (February, 1970);

(l) "Offshore Terminal System Concepts," U. S. Department of Commerce, Soros Associates, Inc. (September, 1972);

(m) "Tanker and Bulk Carrier Terminals," The Institute of Civil Engineers, London, U. K. (November, 1969);

(n) "The Georges Bank Petroleum Study," Massachusetts Institute of Technology, Cambridge, Massachusetts (February, 1973).

Section 3 - Findings of the Authority

Subsection 1 - Potential Stresses.

The Authority has determined, upon consideration of stresses which have occurred at offshore terminal facilities in other parts of the world, and at offshore production operations in the United States, and upon consideration of the peculiarities of Louisiana's coastal environment, that the potential stresses which might reasonably be expected to result from the Authority development program are those set forth below.

a - Major oil spills from maritime accidents, pipeline leaks, or the rupture or collapse of steel tanks or salt cavern storage have a very low probability of occurrence. Where such spills have

occurred, there has been substantial biological recovery within a relatively short period of time, although the rate of recovery for each species is dependent upon the season, degree of exposure, and the type of oil. Such spills, under certain conditions, could cause a number of effects:

(1) Coating with oil:

(a) Oil reaching a beach in large quantities makes it almost uninhabitable for most animal and plant life in the immediate area involved, and destroys its appeal for human recreation;

(b) Oil apparently affects oxygen transfer with plant leaves. Marsh grasses recover from low level dosages, but heavy coating of the vegetation usually kills the plant parts above ground, and continued exposure usually kills the roots;

(c) Oil sinking to the bottom of the water may smother benthic organisms;

(d) Deposition of oil on substrates, such as rocks, sand, and mud, may cause the alteration of marine habitats;

(e) Oil slicks foul the hulls of commercial and recreational boats;

(f) Oil coating adversely affects aquatic birds. In oil-matted plumage, air is replaced by water causing loss of both insulation and buoyancy; also, oil ingested during preening can have toxic effects;

(g) Coating of organisms with oil may mechanically interfere with organism activities such as respiration, feeding, and locomotion, producing lethal or sub-lethal effects;

(2) Soluble compounds contained in oil may have a number of adverse effects on organisms which come in contact with the

oil. The stress varies with the composition and concentration of oil, the biological sensitivity of various organisms, the season, the life stage of the organism (larval forms are particularly sensitive), and the duration and frequency of exposure. The possible effects of oil on individual organisms may be classified as follows:

(a) Immediate (acute) lethal toxicity;

(b) Sub-lethal disruption of behavioral patterns;

(c) Incorporation of hydrocarbons in organism tissue, possibly causing flesh tainting, although most organisms purge themselves of hydrocarbons following removal of the source of contamination;

(3) Some oil spill cleanup agents may have the lethal or sub-lethal effects described in sub-paragraphs (1) and (2) of this paragraph, depending upon the composition and rate of application of the agent and the exposure of the organism;

(4) Reduced oxygen content in the water may increase the mortality of sea life in the area. The possible causes of oxygen depletion resulting from an oil spill are:

(a) An oil slick may obstruct light penetration through the water, decreasing photosynthesis and thereby reducing oxygen production;

(b) Biological and chemical oxidation of the oil may reduce the oxygen content of the water;

(c) Biological and chemical oxidation of dead organisms may reduce the oxygen content of the water;

(5) An oil slick is aesthetically displeasing;

(6) Volatile fractions of oil will evaporate and could contribute to photochemical smog formation.

b - Fires and explosions are potential stresses. A fire or explosion, under certain conditions, could cause the loss of human life, the destruction of natural resources and property, and discharge of oil into the natural environment.

c - Major brine spills or chronic brine discharges could disrupt salinity patterns and estuarine life.

d - Secondary development resulting from the Authority development program is a major potential stress. (The Authority's policy with respect to secondary development is stated in Chapter 4, Section 5, paragraph c). Industrial development and related urbanization ancillary to offshore terminal facilities if established in coastal wetlands, could cause the stresses set forth below.

(1) Secondary development in the wetlands could cause disruption or alteration of water circulation patterns, salinity balance, wildlife habitats, and nursery, spawning and breeding activities of wildlife. Recreational and agricultural lands, archeological and historical sites, and unique features or habitats could be disturbed or lost.

(2) Increased population due to secondary development in a wetlands area could require additional land area for buildings and require additional public services, such as schools, police and fire protection, sanitation facilities, water supply, and utilities.

(3) Secondary development in a wetlands area could result in deterioration of air and water quality, increased noise, and increased quantities of solid waste.

e - The location of pipelines off the Louisiana coast could have the following effects:

(1) Barrier islands serve as a regulator for salt and freshwater balance in estuaries, serve as a sand source for beach fronts, help abate storm surges, and provide a physical setting for recreational activities. If a pipeline transected a barrier island, a new tidal pass could be created if the pipeline excavation is not properly filled;

(2) Barrier islands along the Louisiana coast are maintained by lateral or shoreline transport of sand. An unburied pipeline in these areas could interfere with sand transport;

(3) An unburied offshore pipeline could create a barrier or a change in the littoral currents. These currents are the principal avenues used by fishery species in their movement

into and out of the estuaries;

(4) Tidal passes are critical along the Louisiana coast because they control the water regime for the coastal wetlands, and they provide a route by which migratory estuarine species can enter and leave. Alteration of a tidal pass could affect water circulation and the salinity balance within an estuary.

f - The construction of the receiving terminal could cause localized land subsidence which could change drainage and salinity patterns.

Subsection 2 - Actual Stresses.

The Authority has determined, based upon consideration of stresses which have occurred at offshore terminal facilities and similar installations and upon consideration of the peculiarities of Louisiana's coastal environment, that the actual stresses which might reasonably be expected to result from the Authority development program are as follows:

a - General

(1) The construction and operation of offshore terminal facilities will generate air and water contaminants and solid waste, and will increase the noise level in the immediate vicinity;

2) The construction and operation of offshore terminal facilities adjacent to the coastline of Louisiana will lead to population increases which could directly affect the area as a result of increased employment directly associated with the Authority development program;

(3) The construction and operation of offshore terminal facilities will modify existing land use patterns and change the basic equilibrium or operation of the ecosystem in the immediate area and will affect wildlife habitat, recreational use, and nursery, spawning and breeding grounds for aquatic life in the immediate area;

(4) The construction and operation of offshore terminal facilities may cause increased erosion wherever revegetation of disturbed areas is not complete.

b - Construction activities related to offshore terminal facilities may include land clearing, excavation, dredging, pile driving, filling and back filling, spoil disposal, solution mining and brine disposal. Actual stresses that will occur during construction operations are of a temporary nature and are generally limited to the immediate area of the construction activity. They will include:

(1) Destruction of benthos in offshore and estuarine areas;

(2) Destruction or alteration of marsh vegetation, leading to

an increase in the erosion rate in the area affected;

(3) Increase in turbidity adversely affecting photosynthesis and respiration of aquatic life in the affected area;

(4) Disruption of nursery, spawning, and breeding grounds for aquatic life in the affected area;

(5) Disruption of natural land habitats;

(6) Disruption or alteration of existing water circulation, salinity patterns, and nutrient cycles which are necessary for the existence of many types of aquatic life and estuarine vegetation;

(7) Increase in the amount of interface between the land and the water, leading to an increase in the erosion rate in the area affected;

(8) Development of anaerobic conditions which adversely affects plant and animal populations.

c - The operation of offshore terminal facilities will cause the following stresses:

(1) Operations of bulk cargo carriers, support vessels, and offshore terminal facilities will generate sanitary, liquid, and solid wastes and garbage which will require treatment or disposal.

(2) Small amounts of oil may be accidentally discharged from some areas of a deepwater port, and from certain onshore facilities. The design and operational procedures required by the Protection Plan and applicable law should minimize such discharges. Wherever such chronic, low-level oil discharges occur, they can affect life forms in the immediate area depending on the species and the degree of exposure.

(3) The physical presence of the onshore facilities will affect aesthetic qualities in the immediate vicinity.

(4) Secondary development throughout the State would result from the Authority development program. The concentration of industry could, in turn, promote an increase in the associated commercial and economic activities. The immediate effects of these increases could involve changes in land use, leading to population growth and its associated demands on natural resources, housing, and public services. The Authority's policy with regard thereto is stated in Chapter 4, Section 5, paragraph c.

CHAPTER 3

SITE SELECTION[1/]

Section 1 - Statutory Authority

a - Subsection J(2) of RS 34:3113 requires that the Protection Plan "describe the essential features of existing environmental data upon which the selection of a site for a Deep Draft Harbor and Terminal may be based"; "indicate how this data has been analyzed and compared with the inventory of potential and actual stresses" required by Subsection J(1) so that the site selected will result in the "least total stress on the environment"; "indicate how economic considerations are compared with the assessed total stress on the environment to arrive at the best economic-ecologic formula for determination of a site for the Deep Draft Harbor and Terminal"; and

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1/ Since the initial promulgation of the Protection Plan, Congress has enacted the Deepwater Port Act which provides for the authorization and regulation of the "location, ownership, construction and operation of deepwater ports in waters beyond the territorial limits of the United States." However, there are presently no regulations promulgated pursuant to that Act. Moreover, there exists the possibility that salt dome cavities may represent feasible receptacles for oil storage, although the Authority does not have sufficient information on salt-dome storage at this time to enable it to evaluate the concept. Also, the Protection Plan is designed primarily to protect the environment with respect to stresses from an oil transfer facility, although dry bulk transfer facilities may be developed in the future. Because promulgation of regulations under the Deepwater Port Act, use of salt-dome storage, or development of dry bulk transfer facilities could affect provisions of the Protection Plan with respect to such matters as stresses, site selection, design, construction, operation, funding, and coordination, the Authority may subsequently find it necessary to further amend the Protection Plan to include appropriate provisions where such uncertainties presently exist.

"state the location and availability of the environmental data upon which these determinations are based."

b - Subsection D of RS 34:3109 empowers the Authority "to take all necessary steps to protect Louisiana's unique coastal environment from any short-term or long-term damage or harm which might occur from any aspect of the Authority development program."

Section 2 - General Provisions

Subsection 1 - Statement of Policy.

This Chapter is intended to assure that consideration is given to a number of alternative sites for offshore terminal facilities and that the sites selected will result in the least total stress on the environment and the minimum ecological damage to any part of Louisiana's unique and complex coastal environment.[2/]

a - The Authority adopts the following findings of the Louisiana Advisory Commission on Coastal and Marine Resources as the policy of the Authority with respect to the protection of Louisi-

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2/ The Authority will require comparison of any proposed site with alternative sites, including the three possible Louisiana sites examined by the United States Army Corps of Engineers: The Southwest Pass site, the Bayou Lafourche site, and the Sabine Pass site. "Report on Gulf Coast Deep Water Port Facilities, Texas, Louisiana, Mississippi, Alabama and Florida," United States Army Corps of Engineers (June, 1973).

ana's coastal environment:[3/]

> "The coastal zone of Louisiana is the most valuable yet the most complex region of the state. Coastal and marine resources, including living resources, non-living resources, recreation, fish, wildlife, estuaries and water and land resources, are of vital importance to the people and economy of the State and there is a genuine concern throughout the State for their planned and coordinated development and protection.
>
> "Living resources of the coastal zone are directly dependent upon viable marshes and swamps as integral parts of the estuarine systems. Increasing uses of the coastal zone for industrial and commercial development, water resources development, recreation, tourism, urbanization, and transportation are creating conflicts between these uses. These conflicts, if not reconciled, may diminish the natural capacities of the estuaries to provide habitat for many species of marine life and wildlife, produce nutrients essential to estuarine productivity, serve as a buffer against flooding and erosion of highlands, and aid in the assimilation of pollutants in the coastal zone.
>
> "Development should not be prohibited in the coastal zone. However, it is in the public interest and general well-being of the people of Louisiana and within the police power of the State to establish the proper balance between development and conservation.
>
> * * *
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> ". . . [A] planned, coordinated and concerted program should be conducted by state government in conjunction with local governments to prevent the harm from uncoordinated and ill-planned development of the state's coastal zone, both public and private.

3/ "Louisiana Wetlands Prospectus", Louisiana Advisory Commission on Coastal and Marine Resources, pages V-3 & V-5 (September, 1973). It is anticipated that the Environmental Protection Plan will be incorporated into the coastal zone management program of the State of Louisiana as special management guidelines applicable to offshore terminal facilities, as a segment of that program in the area directly impacted by air and water development in the coastal zone resulting from such facilities.

"It is further declared that it is the policy of the State of Louisiana to provide for the systematic and regional management of the state's coastal zone by planning for and encouraging all reasonable and compatible uses and by discouraging unreasonable and incompatible uses.

"The Commission believes that the coastal resources program of Louisiana should give priority to the orderly use, protection and enhancement of the vast wetlands and coastal waters of the state in order to maintain their productivity and essential role in sustaining the state's fisheries and wildlife resources and recreational uses. This priority does not lessen in any way the importance of other aspects of coastal resource use, such as economic development or deep-ocean utilization but expresses the view that a first step in the program should be to focus on the most extensive physiographic feature of our coastal zone—the wetlands and coastal waters.

"The Commission recommends that Louisiana's fundamental policy be to encourage full use of coastal resources by as many citizens as possible subject to five additional policies.

> "(1) Water flow, water circulation, water quantity and quality are the single most important factors of wetlands systems, and the impact of uses on these factors needs careful review prior to their authorization.
>
> "(2) Impact of uses on coastal marshes and estuaries must be measured on a regional or ecosystems basis so that the cumulative impact of many small uses can be assessed in terms of the viability and productivity of the region or system.
>
> "(3) Proposed land uses in the coastal zone must be assessed in terms of the intrinsic suitability of the site for the proposed use.
>
> "(4) Transportation and utility systems must be designed to encourage urban and industrial growth in corridors where it is best suited, and discourage such growth in wetland areas which are substantially undisturbed.
>
> "(5) Multiple use and economically diversified uses must be preferred over single-purpose uses of the coastal zone.

b - The Authority recognizes that many aspects of site selection for offshore terminal facilities cannot be made according to a precise formula, and that in many instances the ecological impact of the construction and operation of such facilities cannot be readily expressed in economic terms.

Subsection 2 - Findings of the Authority.

a - Installation of a deepwater port off the Louisiana coast has substantial economic and ecological advantages over other methods of transporting oil to Louisiana refineries. A deepwater port will locate port activity off the immediate Louisiana coastline; further, the port will be used by large bulk cargo vessels which will permit the transportation of greater amounts of cargo in fewer ships, thereby reducing the possibility of ship collision or grounding which could result in an oil spill.

b - The Authority finds that deepwater port facilities for the handling of oil adjacent to the coastline of Louisiana should be limited in number to one, and that the deepwater port and onshore facilities should occupy the minimum space necessary for their efficient and safe operation.

c - The Report of the Corps of Engineers concluded that deepwater port facilities should be constructed off the east and west coasts of the United States, and off the Gulf coast in the areas of

Freeport, Texas, Louisiana, and Mississippi - Alabama.[4/]

d - Based on the Report of the Corps of Engineers, the draft environmental impact statement submitted with the federally proposed Deep Water Port Facilities Act of 1973, and other related studies, the Authority finds that a deepwater port located off the coast of Louisiana, which would serve the Louisiana and midwest refineries, should be planned as a part of the national system of deepwater port facilities.

Section 3 - Essential Environmental Considerations

Subsection 1 - General.

a - Because proximity of offshore terminal facilities to onshore development corridors will reduce the amount of wetlands area used for pipelines and onshore facilities, and because fullest possible utilization of development corridors represents an effective step in pursuance of the Authority's policy regarding secondary development in coastal wetlands, as stated in Chapter 4, Section 5, paragraph c, the Authority finds that all offshore terminal facilities shall, to the fullest extent possible, be located in close proximity to, or be confined to, or placed in alignment with, onshore development corridors, and onshore pipeline routings shall,

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4/ "Report on Gulf Coast Deep Water Port Facilities, Texas, Louisiana, Mississippi, Alabama and Florida", United States Army Corps of Engineers (June, 1973), at page 111.

to the fullest extent possible, be confined to development corridors, or be placed in or adjacent to existing pipeline rights-of-way or canals.

Subsection 2 - Deepwater Port.

a - Water Depth.

(1) Because dredging temporarily destroys benthos, temporarily increases turbidity which adversely affects photosynthesis and respiration of marine animals in the vicinity, and generates spoils which must be disposed of elsewhere, the Authority finds that any deepwater port shall be located where the natural depth of water is sufficient to minimize the need for dredging.

(2) Because vessel groundings represent a major potential source of oil spills, the Authority finds that any deepwater port shall be located where the natural depth of the water is sufficient to assure against vessel groundings with the possibility of resultant oil spills.

b - Navigational Fairways.

Because the use of designated navigational fairways for entrance to and exit from a deepwater port will minimize the possibility of collisions which may result in oil spills, the Authority finds that a deepwater port shall be located in an area

which has clear, unobstructed access to the open sea by navigational fairways which, to the fullest extent possible, do not transect established sea lanes, and in which existing offshore gas and oil platforms will not interfere with the safe operation of the deepwater port, and in which the deepwater port, or navigation to and from the deepwater port, will not interfere with the safe operation of existing offshore structures.

c - Sea Bottom Characteristics.

Because poor foundation conditions, relatively steep seabed slopes, and mudlump areas could endanger offshore installations, including the possible rupture of the offshore pipelines connected to a deepwater port; therefore, the Authority finds that a deepwater port and its offshore pipelines shall be located in areas which have stable sea bottom characteristics.

d - Marine Spawning Areas.

Because installation of offshore terminal facilities could disturb sea bottom biological activity in the immediate area involved, and because disruption over a wide-spread area could cause alteration of marine spawning activities, the Authority finds that offshore terminal facilities shall, to the fullest extent possible, not be located within, or transect, identified marine spawning areas.

e - Offshore Pipelines.

Since the possibility of accidents is lessened if the offshore pipeline routing avoids contact with existing submarine installations, the Authority finds that the offshore pipeline routing shall avoid crossings or other contacts with existing submarine installations, to the fullest extent possible.

f - Barrier Islands.

(1) Because barrier islands serve as a regulator for salt and fresh-water balance in estuaries, serve as a sand source for beach fronts, help abate storm surges, and provide a physical setting for recreational activities, several stresses are created when a pipeline transects a barrier island, or when any significant construction is done on a barrier island. If a pipeline canal on a barrier island is not properly filled, a new tidal pass can be created.

(2) Because any significant construction activities on a barrier island could not be undertaken without provision for extensive erosion control techniques, which would impose additional ecological and physical stresses upon the barrier island, and because the location of a deepwater port or onshore facilities on a barrier island would be incompatible with the recreational uses and natural functions of such islands, the

Authority finds that the offshore pipeline routing shall not traverse any barrier island, and the onshore facilities shall not be located on a barrier island.

g - Tidal Passes.

Because tidal passes are critical along the Louisiana coast because they control the water regime for the coastal wetlands, and they provide a route by which migratory estuarine species can enter and leave, the Authority finds that to the fullest extent possible, the offshore pipeline routing shall not traverse a tidal pass. If a tidal pass must be traversed, it shall be neither permanently widened nor deepened, and shall be restored to its original condition immediately upon completion of pipeline installation.

h - Casualty Oil Spills.

Because a major oil spill from a vessel or from a deepwater port or onshore facility could cause extensive damage to various life forms, the Authority finds that a deepwater port and its navigational fairway or fairways shall, to the fullest extent practicable, be located where prevailing currents and winds will minimize the probability of spilled oil entering the estuarine system.

Subsection 3 - Onshore Facilities.

a - The location of onshore facilities shall not impinge upon or otherwise disturb historic or archeological sites, except with the approval of, and under the conditions imposed by, the Louisiana Archaeological Survey and Antiquities Commission.

b - Because poor foundation conditions could cause facilities to buckle, rupture, or subside, onshore facilities shall be located in an area in which a stable foundation exists or can be developed, and in which adequate containment and flood protection can be provided.

c - Wetlands.

Because draining and filling wetlands destroys benthic populations and bottom spawning organisms, and removes the area from biological productivity, and because pipeline construction through coastal wetlands could cause changes in estuarine water circulation patterns, possible alteration of the fresh and salt water balance in the estuaries, and possible increases in the rates of erosion and subsidence, onshore facilities shall be located in an area in which a minimum alteration of wetlands is necessary for construction, and the routing of onshore pipelines through coastal wetlands shall be kept to a minimum.

Section 4 - Economic and Environmental Costs

Subsection 1 - General Provisions.

The economic and environmental cost projections required by this Section shall be included as part of any application submitted to the Authority for the issuance of a license to construct and operate offshore terminal facilities within the jurisdiction of the Authority. The economic and environmental cost projections required by this Section shall be uniformly expressed, and shall be estimated in accordance with the best available procedures. The sufficiency and acceptability of such data shall be reviewed independently by the three Directors.

Subsection 2 - Economic Costs.[5/]

A projection or estimate of economic costs shall be stated for each proposed facility and site. The projection shall include known and predictable costs associated with the construction and operation of the facility under consideration, but exclude the environmental costs required to be stated by the following Subsection; the purpose of the projection is to obtain a comparative evaluation of all potential sites for the facility under consideration and shall not be

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5/ See "Report on Gulf Coast Deep Water Port Facilities, Texas, Louisiana, Mississippi, Alabama and Florida", United States Army Corps of Engineers, Appendix E (June, 1973).

the basis of any claim for reimbursement or compensation for damages permitted under law. To the extent it is pertinent to site selection, the comparative study should contain references to estimates of possible third party damages and increased governmental services.

Subsection 3 - Environmental Costs.[6/]

To the greatest extent possible, a license application shall include a projection and valuation of all environmental costs associated with the proposed facility and site, including but not limited to:

a - Capital costs for environmental protection equipment or facilities required by any provision of this Protection Plan;

b - The operating costs for environmental protection activities required by any provision of this Protection Plan;

c - The environmental costs of all identifiable and quantifiable stresses reasonably expected to result from the selection of the proposed site, including any environmental costs which may be recovered by the Authority under applicable law; and a list of all identifiable environmental stresses reasonably expected to result

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6/ See, "Louisiana Superport Studies, Report No. 3, Recommendations for the Environmental Protection Plan," Louisiana State University Center for Wetland Resources, (Draft-October 31, 1973); "Draft Environmental Impact Statement-Deepwater Ports," United States Department of the Interior (June, 1973).

from the selection of the proposed site for which no realistic monetary valuation or projection can be made, and a statement of the reason or reasons why no monetary valuation or projection can be made.

Subsection 4 - Economic and Environmental Benefits.[7/]

To the fullest extent possible, a license application shall include a projection and valuation of the economic and environmental benefits for each proposed facility and site, including but not limited to:

a - The savings in transportation costs to be expected for each proposed site;

b - The projected increased employment and employment benefits resulting from the construction and operation of the facility;

c - The projected increase in state and local tax revenues to be expected for each proposed site;

d - The projected direct income to be earned by the facility; and

e - An estimate or projection of environmental benefits to be expected from the proposed site of the facility.

7/ See "The Economic Impact of a Louisiana Offshore Oil Port", H. J. Kaiser Co. & Gulf South Research Institute, (May, 1973); "Report on Gulf Coast Deep Water Port Facilities", United States Army Corps of Engineers, Appendices C, E & G (June, 1973).

Section 5 - Site Approval Procedures

a - Before the Authority may issue a license for the construction and operation of offshore terminal facilities within its jurisdiction, the location of such offshore terminal facilities shall be evaluated by the three Directors and shall be approved by the Board of Commissioners in the manner provided hereinafter.

b - Any license application submitted to the Authority shall include specific site selection data as required hereinafter, which data shall be presented in sufficient depth to permit the three Directors to make a reasoned choice. The sufficiency of such data shall be evaluated independently and commented upon by the three Directors.

c - A license application shall provide environmental, engineering, and economic data and analysis for such reasonable alternate sites required by this Protection Plan and by the three Directors. The data and analysis shall be sufficient to allow a reasonable comparison of alternate sites by the three Directors and should be sufficiently detailed to reveal the comparative evaluation of the economic and environmental benefits, costs, and risks of the proposed offshore terminal facilities and each reasonable alternative. When an existing federal environmental impact statement or assessment already contains such an analysis, its treatment of alternatives may be incorporated, provided that such treatment is current and relevant

to site selection considerations.

d - The authority may require submission of such additional information or supporting data as it deems necessary for a full and complete consideration of any license application.

e - The Authority recognizes that, although accounting techniques for industrial matters are fairly precise, difficulties still exist in translating environmental values into economic terms. Despite the difficulties involved in determining an appropriate common denominator for the comparison of economic and environmental values, various attempts to create economic-ecologic formulas have been made.[8/] Although no single formula is sufficiently developed to be controlling, consideration of various formulas provides a useful basis for comparing economic and environmental values. The three Directors shall solicit the assistance of environmental and economic specialists in determining the extent to which the concepts and methods expressed by existing economic-ecologic formulas or models can be effectively utilized in the site selection process, and in making the other determinations required by this Section.

f - Notwithstanding the limitations stated in the preceding paragraph, a license application shall contain an evaluation of the

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8/ See, e.g., discussion contained in "Louisiana Superport Studies, Report No. 3, Recommendations for thyEnvironmental Protection Plan", Louisiana State University Center for Wetland Resources (October 31, 1973), and "Louisiana Superport Studies, Report No. 4, Technical Appendices to Recommendations for the Environmental Protection Plan", Louisiana State University Center for Wetland Rerources (November, 1974).

proposed site and the alternate sites, which shall demonstrate:

(1) That the requirements of Section 3 of this Chapter have been satisfied;

(2) The nature and extent of the assessed total stress on the natural and human environment which would result from each of the sites being compared; and

(3) The comparison of economic considerations with the assessed total stress for each of the sites, and that the proposed site represents the best economic-ecologic accommodation.

g - In evaluating the proposed location of offshore terminal facilities, the three Directors shall coordinate and cooperate with the governing authority of any parish in which the proposed facilities are to be located, and shall make available to such governing authority, in accordance with applicable law, all relevant information available to the Authority.

h - The three Directors shall make written recommendations regarding approval or disapproval of any proposed site, which shall be based on full consideration of the license application, and the requirements of this Protection Plan, and any comments received from the governing authority of any parish in which the proposed facilities are to be located. The recommendations shall state the essential facts on which they are based.

i - Subsequent to the submission of the recommendations of the three Directors to the Board of Commissioners and not less than thirty days prior to consideration of the recommendations by the Board of Commissioners, public notice of the recommendations shall be published, in the manner provided below, setting forth the general nature of the recommendations and the time, date and place of a meeting of the Board of Commissioners at which the proposed site or sites will be considered, and at which the public will be given an opportunity to present views.

j - The notice required by the preceding paragraph shall be published by the Authority once a week for three consecutive weeks in the Authority's official journal, and in a daily newspaper in the locality or localities most affected by the proposed project.

k - Any interested person may file with the Authority a written statement, either supporting or opposing the recommendations of the three Directors, and stating in detail his reasons therefor.

l - Any interested person shall be given the opportunity to present orally a position on the proposed site at the meeting of the Board of Commissioners at which the proposed site or sites will be considered.

m - The Board of Commissioners shall approve or disapprove the location of offshore terminal facilities within the jurisdiction of the Authority, based on the report of the three Directors

and all other relevant information. The Board's decision shall be made as soon as possible but in no event longer than 120 days after receipt of the recommendations of the three Directors.

CHAPTER 4

CRITERIA FOR DESIGN[1/]

Section 1 - Statutory Authority

Subsection J(3) of RS 34:3113 requires that the Protection Plan "state how the Deep Draft Harbor and Terminal facility design minimizes potential environmental damages, considers environmental features as a positive part of the design, and controls long-term development so that growth and additions to the Deep Draft Harbor and Terminal do not result in random growth or in gradual environmental deterioration."

Section 2 - General Provisions

Subsection 1 - General Statement.

a - At this time, only a deepwater port with a capacity to

1/ Since the initial promulgation of the Protection Plan, Congress has enacted the Deepwater Port Act which provides for the authorization and regulation of the "location, ownership, construction and operation of deepwater ports in waters beyond the territorial limits of the United States." However, there are presently no regulations promulgated pursuant to that Act. Moreover, there exists the possibility that salt dome cavities may represent feasible receptacles for oil storage, although the Authority does not have sufficient information on salt-dome storage at this time to enable it to evaluate the concept. Also, the Protection Plan is designed primarily to protect the environment with respect to stresses from an oil transfer facility, although dry bulk transfer facilities may be developed in the future. Because promulgation of regulations under the Deepwater Port Act, use of salt-dome storage, or development of dry bulk transfer facilities could affect provisions of the Protection Plan with respect to such matters as stresses, site selection, design, construction, operation, funding, and coordination, the Authority may subsequently find it necessary to further amend the Protection Plan to include appropriate provisions where such uncertainties presently exist.

handle oil is being considered, although possible development of a deepwater port for handling other types of bulk cargo has been anticipated. The provisions of this Chapter are intended to provide the greatest environmental protection from all types of deepwater port and onshore facilities, although this Protection Plan considers primarily oil handling facilities.

b - Based on information from various sources, including the United States Army Corps of Engineers, the Louisiana State University Center for Wetland Resources, the United States Department of the Interior, and the engineering consultants retained by the Authority, the Authority has made a preliminary determination that, of all the various deepwater port designs considered for the handling of crude oil, the monobuoy system would cause the least environmental stress to both the offshore environment and the Louisiana coastline.[2/]

Subsection 2 - Findings of Authority.

a - Pursuant to subsection J(3) of RS 34:3113, the Authority considered the environmental stress presented by each of the following types of deepwater ports: dredged channels to existing port facilities, artificial island, floating and rigid platform, and mono-

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2/ The rules and regulations set forth in this Chapter are based on the best information presently available. They may be revised at any time by the Authority, either on its own motion, or upon a showing by any interested person that another design for the proposed deepwater port and onshore facilities would have a lesser impact on the environment than that which is set forth herein.

buoy systems.

b - Of all deepwater ports considered, the one obtained by dredging deep channels to existing port facilities would result in the greatest stress on the environment. The Authority finds that:

(1) Massive dredging operations would be necessary, both to convert an existing Louisiana port into a facility capable of handling deep draft vessels and to keep the facility operational. These dredging operations could result in the following environmental stresses:

(a) Temporary destruction of benthos in the dredged area;

(b) Temporary increase in turbidity which will adversely affect photosynthesis and respiration of aquatic life in the dredged area;

(c) Temporary destruction of nursery, spawning, and breeding grounds for aquatic life in the dredged area, with especially severe effects occurring in the coastal and estuarine regions of the State;

(d) Generation of large amounts of spoil. This spoil would be difficult to dispose of onshore, and any offshore disposal would cover large amounts of productive bottom areas, resulting in the temporary disruption of spawning and breeding cycles of aquatic life residing in these areas, as well as the elimination of large amounts of benthos;

(e) Saltwater intrusion which could both reduce the amount of fresh water available for domestic and industrial uses and alter the salinity balance of coastal waters necessary for the existence of many types of aquatic life;

(f) The speed, volume and direction of surface and bottom currents could be affected by the deepening of existing waterways. This could adversely affect the marine biota of adjoining areas not directly involved in the dredging operations;

(2) Port congestion would be increased, thus increasing both the possibility of vessel accidents and the possibility of oil spills in the port area.

c - A deepwater port established on an artificial island located in the Gulf of Mexico would have to be built up by the use of fill materials obtained from borrow areas. Although an artificial island would be more acceptable environmentally than the dredged channel facility, and would include features that would offset, to an extent, the environmental stresses which it caused, the Authority finds that for an oil port facility, a monobuoy system would, on balance, cause fewer stresses to the environment. The Authority finds that the positive and negative environmental aspects of the artificial island facility, as compared to the monobuoy facility, are:

(1) An island would have to be designed, either by its shape, or by the use of separate breakwaters, to create a calm harbor for use by vessels transferring cargo. The island and its associated breakwaters would alter currents and water circulation in the Gulf, as well as act as a barrier to wave actions. It is difficult to predict how such an obstruction would affect the biota in the wetlands area of Louisiana, but some disruption may occur;

(2) The island and its breakwater system would cover many acres of sea bottom, thereby destroying permanently the benthic organisms at the site;

(3) Large amounts of fill materials would be required for construction of the island and its protective breakwaters. The temporary impact on the borrow areas would be severe, including destruction of benthos in those areas, increased turbidity in those areas with the concurrent adverse affect on aquatic life, possible destruction of spawning and breeding grounds for aquatic life and possible alteration of current patterns;

(4) The danger of vessel collisions would be no less than that posed by a monobuoy facility, and the danger of groundings and vessel rammings with fixed structures would be greater. The increased potential for such accidents would, concurrently, increase the danger of oil spills and other pollution-generating incidents in the Gulf;

(5) The artificial island facility would require more time to construct than a monobuoy facility, and the increased construction time would result in prolongation of the anticipated environmental stresses;

(6) Although the island could be expanded at some future date to permit handling of other bulk cargoes, such expansion would increase traffic congestion and, concurrently, the possibility of vessel accidents involving oil carriers. Further, such expansion would create environmental stresses similar to those which would occur from constructing a separate facility for other bulk cargoes;

(7) The rock or concrete of the facility's revetments and/or breakwaters could create a new habitat for many forms of aquatic life;

(8) Spill contaminant systems and clean-up systems can be incorporated into the facility so that any oil spilled within the protected harbor may be contained in the harbor area.

d - A fixed pier or rigid platform facility would consist of a structure attached to the sea-bottom. A floating platform facility would consist of a buoyant platform anchored to the sea bottom. Vessels with cargo to transfer would berth alongside the platform and transfer their cargo into receiving areas located on the platform. While more acceptable environmentally than either the dredged channel or artificial island facilities, the Authority finds that either type of platform facility would be less desirable environmentally than the monobuoy facility. The following factors were considered:

(1) With a platform facility, the danger of vessel collisions would be no less than that posed by a monobuoy, and the danger of vessel rammings with a fixed structure would be greater;

(2) Without a protective breakwater, the periods during which a platform facility could be safely used would be greatly reduced below that for a monobuoy facility. Further, the ability to contain oil spills in the area of the facility would be

identical to that for a monobuoy;

(3) With a protective breakwater to provide a calm berthing area, the stresses and benefits would be similar to those listed for the artificial island.

e - In deciding, preliminarily, on the monobuoy facility, the Authority considered the following factors:

(1) The only dredging required for a monobuoy would be that necessary for the construction of pipelines — a requirement for all types of deepwater port facilities;

(2) The monobuoy facility would require the least amount of time to construct, and thus would result in the shortest environmental disruption;

(3) All components of the monobuoy facility have been used and observed for many years throughout the world, with the result that the predictability of, and concurrently, the ability to minimize, environmental stresses posed by that facility would be enhanced;

(4) Because of the distances separating the monobuoys, the use of navigational fairways to approach, and depart from, the monobuoys, and the remoteness of the monobuoy facility from existing ports, the possibility of vessel collisions would be as low as with other types of facilities;

(5) Because vessels would transfer their cargoes at a relatively small, movable, floating buoy, rather than at a fixed structure, the possibility of a collision involving a vessel and a fixed structure would be minimized, and, should a collision between a vessel and a monobuoy occur, environmental stresses resulting therefrom should be minimal;

(6) The bottom area below a monobuoy facility would be only temporarily disturbed during the construction phase of the project. The limited permanent disruption that would occur would be restricted to anchors and platform piles, the least possible disruption associated with any deepwater port facility;

(7) A monobuoy facility is the easiest to dismantle and would pose the fewest problems should operations cease;

(8) A monobuoy facility may be used safely during more severe seas than may other types of deepwater port facilities, except those facilities protected by breakwaters;

(9) A monobuoy facility easily may be expanded in stages to reach maximum capacity by connecting additional monobuoys to the pumping platform. Thus, expansion of a monobuoy facility would result in minimal environment disruption;

(10) Local employment required to construct a monobuoy facility

would be as small or smaller than that required for the other facilities considered, thereby minimizing temporary population growth in the coastal wetlands associated with the construction of the deepwater port facility;

(11) Construction activities for a monobuoy facility should not necessitate the erection of new industrial facilities in the coastal wetlands and would not create any greater demands on the region, local industry, local communities, or on natural resources than other types of facilities;

(12) The one disadvantage inherent in a monobuoy facility, as compared to a facility having a harbor protected by breakwaters, is that, should a major oil spill occur at the monobuoy site, spill containment equipment and procedures now available could not effectively restrict the spill to the immediate area except under favorable wind, current, and wave conditions. However, the possibility that such a spill would occur at a monobuoy facility is extremely small. Indeed, no major oil spills have been reported as a result of unloading operations at any of the now-existing monobuoy facilities.

Section 3 - Design Criteria

Subsection 1 - Introduction.

The provisions of this Section describe generally those design

criteria for any offshore terminal facilities within the jurisdiction of the Authority, intended to minimize potential environmental stress. The design of any such facilities must be approved by the Authority prior to the issuance of a license by the Authority authorizing their construction and operation. During the construction and operation of offshore terminal facilities within the jurisdiction of the Authority, the Authority shall conduct inspections pursuant to Section 8 of Chapter 5 of the Protection Plan to assure adherence to the standards set forth herein.

Subsection 2 - General Criteria.

a - The design criteria contained in this Subsection shall be applicable to all offshore terminal facilities within the Authority's jurisdiction. It is the policy of the Authority that the design of all facilities reflect consideration of the best available technology, and that the design minimize, to the fullest extent possible, all actual and potential environmental stresses.

b - The design of all offshore terminal facilities shall be in accordance with applicable industry standards and those of local, State and federal agencies. Citations to the relevant portions of such standards shall be submitted to the Authority with any proposed design.

c - All offshore terminal facilities and related systems and equipment shall be designed to permit safe operation under the max-

imum operating loads and most adverse operating conditions to which each will be subjected. Appropriate safety factors shall be included in all designs.

d - All facilities and related systems and equipment shall be designed to be made secure from the winds, waves, currents, tides, flooding, and weather conditions associated with, or produced by, one-hundred-year storms.

e - Equipment in all such facilities shall be designed, and installed to minimize the amount of noise generated during their operations and in no event exceed that permitted by law.

f - All facilities shall be designed to include the necessary air pollution control devices to treat any discharge of air contaminants into the atmosphere, so as to insure that any such discharge from a facility under the Authority's jurisdiction meets all applicable standards.

g - All facilities shall be provided with sufficient containers for the storage of garbage and solid waste generated at that facility. Such waste shall be removed to approved sites, and disposed of in a manner, approved by appropriate State, federal and local authorities.

h - All facilities shall be designed to include either sanitary waste treatment facilities, or holding tanks for sanitary waste

which shall be transported to approved treatment facilities, so that no sanitary waste will be discharged from a facility under the Authority's jurisdiction into the environment unless it is first treated, and, at the time of discharge, meets all requirements applicable to the discharge of such waste.

i - All facilities which dispose of liquid pollutants shall be designed to insure that all liquid pollutants, including waste water, are treated prior to their discharge into the environment so as to meet all standards applicable to the discharge of such pollutants, including those of the Environmental Protection Agency, U. S. Geological Survey, and the Louisiana Stream Control Commission.

j - All transfer, transportation, and storage facilities shall include appropriate safeguards and back-up systems in order to minimize, to the fullest extent possible, both the possibility of pollution-generating incidents resulting from equipment and/or personnel failure, and the effects of such incidents that do occur.

k - All oil transfer systems shall include appropriate pressure relief systems, which, when activated, will prevent pressure in the hoses, pipelines and tanks from exceeding recommended working pressures. Any oil released by activation of the relief valves shall be contained, and not disharged into the environment.

l - Master control switches shall be installed at appropriate locations. Such switches shall permit the remote control of all oil

transfer pumps and positive shut-off valves in the oil transfer system.

m - To the extent possible, all onshore facilities shall be designed so as to negate the effects of subsidence, settling or other movements which could result in damage to any of the facilities, thereby causing the discharge of pollutants.

n - All onshore facilities shall be designed to minimize erosion, to the extent possible.

Subsection 3 - Deepwater Port.

a - Navigation Systems.

Any navigational fairway or fairways for approaching and departing from the monobuoys must be maintained in a safe condition. The fairway or fairways shall be delineated with navigational buoys, and each such navigational buoy shall be equipped with a beacon to permit night approaches to and departures from the monobuoys. Navigational fairways, buoys, and beacons shall be provided in accordance with the recommendations of appropriate federal agencies.

b - Monobuoy Systems.

(1) Each monobuoy system will consist of the following major components: a floating monobuoy, mooring equipment, an anchoring system, and a transfer hose system.

(2) The hull of each monobuoy shall be designed to be an all-welded-steel structure, compartmentalized by water-tight bulkheads and provided with positive flotation devices to prevent the buoy from sinking in the event of penetration of the hull.

(3) The hull shall be fitted on all sides with a skirt or fender to minimize buoy damage in the event of collision with a surface vessel.

(4) The mooring equipment and transfer hose system shall be designed so as to permit a vessel transferring cargo at a monobuoy to rotate a full 360 degrees about the monobuoy.

(5) The hose system shall be equipped with positive shut-off valves. All positive shut-off valves shall be designed to be activated by remote control, except that valve located on the end of the hose system which interfaces with the transferring vessel.

(6) All hoses shall be of reinforced construction to assure maximum flexibility, mechanical strength, reliability and long life.

(7) The hose system shall be equipped with a positive ground in order to prevent accumulation of static electrical charges.

(8) The hose materials shall resist deterioration resulting

from contact with all types of petroleum which may be transferred through the system, including the aromatic compounds contained therein.

(9) The hose system shall be designed with sufficient flotation to insure that the hose floats clear of the sea bottom during normal operations.

(10) The hose system shall be designed so that it may be filled with water or otherwise purged of oil without release of contaminants in the event of hurricane warnings or other emergencies.

(11) All swivel units, connections, and couplings through which the hose system is attached, either to the monobuoy or to the transferring vessel, shall be designed and installed so as to assure, to the fullest extent possible, against the possibility of accidental discharges into the waters of the Gulf of Mexico.

(12) All movable joints where petroleum products could be spilled in the event of a seal failure shall be designed with a minimum of two levels or stages of pressure seating seals. Lubricated or greased parts shall not be exposed to the sea or to wave action in such a way as to allow lubricants to enter the water.

(13) Each monobuoy shall be provided with all necessary equipment to insure navigational safety, including obstruction lights and

radar reflectors. Floating hoses shall be provided with obstruction lights placed at regular intervals along their length. Navigational safety devices shall be designed in accordance with the recommendations of appropriate federal agencies.

(14) The individual monobuoys shall be separated from each other, and each such monobuoy shall be separated from the platform complex, by such distances as may be necessary to assure safe operation.

c - Control and Pumping Platform Complex.

(1) The platform complex shall be equipped with sufficient pumping capacity to enable it to handle transfers between receiving monobuoy systems and the onshore receiving terminal, and shall also have standby pumping capacity to replace any of the primary pumps which may malfunction.

(2) The platform shall be designed so as to permit safe personnel and material transfers as required by port operations between the platform and support vessels, including aircraft.

(3) The platform complex shall be designed to provide the necessary quarters and support facilities for the number of persons required for complete and safe operation of the deepwater port facility.

(4) Platform surfaces shall be designed to include a deck drain-

age system for the containment of contaminants and contaminated runoff water, so as to prevent their discharge into the Gulf of Mexico, or any other body of water, and they shall not be discharged unless first treated so as to satisfy the most stringent requirements applicable to such discharges. The platform complex must be designed either to provide treatment facilities for contaminants and contaminated runoff water or to provide facilities to transport those substances to an approved treatment facility onshore.

(5) Devices for measuring weather conditions and wave and current patterns shall be installed on the platform complex to provide up-to-date information for use by the vessel traffic control center.

Subsection 4 - Vessel Traffic Control System.

A vessel traffic control system shall be established in accordance with applicable federal law, and all approaches to, and departures from, the deepwater port will be monitored, controlled and coordinated, and the system will include, but not be limited to, comprehensive radio communication and radar monitoring systems.

Subsection 5 - Pipelines.

a - Generally.

(1) All oil transferred at the deepwater port facility

shall be transported by pipelines.

(2) The beach crossing of the offshore pipelines shall be designed for burial of the pipelines so as not to interfere permanently with natural littoral processes.

(3) All offshore pipelines shall be constructed of steel pipe, and shall be coated, wrapped, weighted, buried and provided with cathodic protection against corrosion.

(4) All onshore and offshore pipelines shall be designed to permit rapid shutdown in the event of pipeline failure and sectioning off of leaking pipelines by valving.

b - Leak Detection.

(1) Automatic leak-detecting devices shall be provided on all offshore and onshore oil transfer pipelines.

(2) All such devices shall include an active surveillance system for constant monitoring and a device which, in the event of a leak, would sound an alarm at the affected monitoring station or stations including, but not limited to, the platform complex, and automatically operate valves to isolate any leaking pipeline section.

(3) Monitoring stations for the leak-detection systems installed in oil transfer pipelines shall be established at appropriate locations.

(4) Each monitoring station shall be equipped with an alternative means for shutting-down and sectioning-off the pipelines which are monitored at that station, to insure against failure of the automatic shut-down system.

Subsection 6 - Receiving Terminal.

a - The receiving terminal should, to the fullest extent possible, be located outside the productive wetlands, except location of all or part of the receiving terminal in the wetlands can be considered, if justified by an economic-ecologic comparison of alternate locations.

b - The receiving terminal shall be protected by a levee system of sufficient height and strength to protect it from flood waters and other effects associated with a one-hundred-year storm.

c - Any portion of the receiving terminal located in environmentally sensitive areas shall be designed so as to occupy the smallest possible ground area consistent with safety considerations and protection against other environmental stresses.

d - Liquid discharges must meet the most stringent requirements of applicable law.

e - Spill Protection.

(1) The receiving terminal shall be designed to minimize the

possibility of contaminated liquids escaping therefrom, and to contain, in the smallest possible area, any contaminant which may leak or spill from any of the facilities located therein, or which may otherwise be collected therein.

(2) Impermeable enclosures (such as dikes) shall be constructed around all oil tanks inside the terminal. The number of tanks included in each such enclosure shall not exceed four. Each enclosure shall be designed to provide maximum feasible protection against penetration of the ground by oil, and shall be of sufficient size to contain the volume of the largest tank enclosed therein without spillage.

(3) If any enclosure within the terminal area is not of sufficient size to contain the total volume of all tanks enclosed therein without spillage, the terminal shall be designed to include secondary enclosures (which may consist of the terminal's protective levee system) sufficient to prevent any spilled substance from escaping into the area surrounding the terminal.

f - All oil storage tanks shall be designed with roof tank tops required by law to control venting of volatile vapors into the atmosphere.

g - The terminal shall be designed to insure maximum security of the terminal area so as to prevent incidents which could result in damage to the environment. The security measures shall include,

but not be limited to: fencing around the entire perimeter of the terminal, limited entrances, automatic alarm systems, and environmentally acceptable illumination.

h - To the extent practicable, the levee enclosures shall be designed to be compatible with the natural landscape.

Subsection 7 - Support Facilities.

a - Public Utility Services.

(1) Any design for a facility under the jurisdiction of the Authority shall include a description of the amount and kind of public utility service, such as electricity and potable water which shall be required for operation of that facility during each stage of its development.

(2) If any facility under the Authority's jurisdiction would overload existing utility services, provision for such new services shall be included in the design for the facility which shall be served, and shall comply with applicable provisions of this Protection Plan and all applicable environmental regulations of federal, State and local agencies, to insure that the environmental stresses caused thereby are minimized.

b - Support for Facilities.

(1) The Authority recognizes that various support facilities

and activities will be required for the operation of the facilities under its jurisdiction. Such support activities and facilities may include:

(a) Vessels or aircraft for transporting personnel;

(b) Vessels to assist in navigation and mooring;

(c) Vessels and other facilities to assist in the containment and removal of oil spills;

(d) Vessels and other facilities necessary for the maintenance and repair of the deepwater port facility and onshore facilities;

(e) Catering services;

(f) Vessels and facilities for the removal and treatment of all types of waste generated in the operation of the deepwater port facility and onshore facilities; and

(g) Vessels engaged in the environmental monitoring program.

(2) All such facilities and activities must comply with all applicable standards and criteria contained in this Protection Plan and applicable environmental standards established by federal, State and local governmental agencies.

c - Support for Vessels.

(1) If vessels utilizing the deep water port facility have to be refueled and provisioned in the port facility area, there shall be means for refueling such vessels and for providing for the disposal of their garbage, solid wastes, sanitary wastes, and bilge water, and when applicable, ballast water, and the fa-

cilities designed to accomplish these purposes must comply with all applicable standards and criteria set forth in this Protection Plan, and all applicable environmental standards established by federal, State and local governmental agencies.

Section 4 - Positive Environmental Features

a - Concurrent Uses.

(1) All facilities, and all developments related to their construction, such as roads or canals, shall, to the extent practicable, be designed to provide alternative, concurrent uses thereof for recreation, research and aquaculture where those uses are suitable for and compatible with the natural environment in the particular area. In the design of all such facilities, particular consideration shall be given to their possible use as stations for monitoring weather, air and water characteristics (including pollution levels) and flora and fauna populations.

(2) To the extent practicable, all components of offshore terminal facilities within the Authority's jurisdiction shall be designed to provide for the maximum use of existing facilities.

(3) Before any proposed design is approved by the Authority, the person submitting the design must show how alternative, concurrent uses for the proposed facilities have been considered.

(4) The foregoing provisions shall in no event be construed to require uses of facilities which would be inconsistent with the provisions of Subsection 6g of Section 3 of this Chapter.

b - The vessel traffic control system shall, to the extent possible, be integrated with that of the United States Coast Guard so as to enhance the coordination and control of vessel traffic in the area, thereby minimizing the possibility of vessel accidents.

c - Weather, wave, and current data obtained from instruments located on the deepwater port shall be made available, under such conditions as may be reasonable, to appropriate federal, State and local agencies.

d - All capabilities for the containment and clean-up of oil spills resulting from the Authority development program may be available, on an appropriate basis, for use on spills not associated with the Authority development program.

e - Research Projects and Monitoring Programs.

(1) The Authority shall sponsor research projects as provided in Section 5 of Chapter 6, and the Authority shall coordinate monitoring programs as provided in Section 6 of Chapter 5.

(2) Monitoring programs, in covering the general area of the facilities under the Authority's jurisdiction, will obtain information on stresses resulting from sources other than those

facilities.

(3) Results from such monitoring programs shall be made available to further appropriate research programs.

(4) The Authority's annual report shall include information on all monitoring, research and compensation programs conducted, or sponsored, by the Authority. The annual report shall also contain summaries of all records maintained by the Authority relating to oil spills and cleanup and other environmental control programs.

Section 5 - Control of Long-Term Development

a - Facility Expansion.

(1) In order to assure that growth of, and additions to, the deepwater port facility and related onshore facilities do not result in random growth or in gradual environmental deterioration, any design for a proposed deepwater port facility and onshore facilities submitted to the Authority for approval must include a general description of all planned or anticipated additions or expansions to each of said facilities.

(2) Each such design shall specify (a) the initial size and configuration of the facility; (b) the stages of development which the facility will experience and the projected completion date of each stage; (c) the maximum size and final configura-

tion of the facility, and the estimated completion date for the project; (d) the estimated operational life of the facility; (e) a proposal for phasing out and dismantling the facility; (f) the facilities needed to support each such facility during each stage of its development, including the increased demand for public services, such as waste treatment, fresh water, electricity, and access roads; and (g) the manner in which support areas will be utilized and restored to their natural condition, or reused for other purposes.

(3) The Authority will not approve a substantial addition, expansion, or change to any facility unless said addition, expansion, or change has been described in the design of that facility originally submitted to and approved by the Authority; provided that, such an addition, expansion, or change may be approved notwithstanding the requirements of this Subsection, if it will enhance the environment or reflects technological advances applicable to the design or construction of such facilities, and does not result in any additional environmental stress; or such addition, expansion, or change may be approved if an environment assessment demonstrates the feasibility of the alteration without adverse environmental effects. Authority approval may be granted under this Section if all provisions of Chapter 3 and Chapter 5, Section 7 are met, just as though the addition, expansion, or change were a new facility.

(4) The Authority shall consider petitions from any interested person regarding additions, expansions, or changes in the design of a facility already approved by the Authority, where such changes would minimize environmental stress, or utilize technological advancements.

(5) Notwithstanding any other provision, based on environmental considerations, the Authority may refuse to authorize any addition, expansion, or change, even if said addition, expansion, or change had been described in the design initially approved by the Authority.

b - Future Bulk Terminal.

(1) The design for a proposed deepwater port facility and onshore support facilities shall take into consideration the possible construction of another terminal for bulk cargoes other than oil in order to minimize, to the fullest extent possible, the possibility that the construction and operation of one facility would interfere with that of the other.

(2) Any future deepwater port designed to handle bulk cargoes other than oil must comply with the applicable design criteria and other provisions of this Protection Plan and any amendments thereto.

(3) The design and location of any such facility shall, as a

minimum:

(a) Minimize vessel congestion;

(b) Provide for treatment of all atmospheric contaminants and sanitary and other liquid wastes prior to the discharge of such substances into the environment;

(c) Provide for the disposal of solid waste at approved sites;

(d) Cause the least possible environmental disruption during construction; and

(e) Be in accordance with applicable industry standards and those of federal, State and local agencies.

c - Secondary Development.

(1) It is the policy of the Authority to take no action which would support, and whenever possible, to take action to discourage or prevent, the establishment of incompatible or excessive secondary industrial and urban development in the wetlands of the Louisiana coastal zone which is not consistent with the environmental objectives of the State of Louisiana, such as those contained in the recommendations of the Louisiana Advisory Commission on Coastal and Marine Resources. The Authority recognizes the need for, and encourages the adoption of, appropriate legislation establishing coastal zone management within the State of Louisiana.

(2) All facilities, including shore-based facilities and vessels, owned, controlled or operated, either by owners or opera-

tors, or persons who have entered into contracts with the Authority or owners or operators for providing support services related to the construction or operation of any facility under the Authority's jurisdiction, shall be so designed, constructed, equipped and operated to comply with the provisions of this Protection Plan and all applicable environmental standards established by federal, State, or local governmental agencies.

(3) The requirements set forth in the preceding paragraph shall be a condition for the granting of any approval by the Authority, or the validity of any contract entered into with the Authority or an owner or operator for support services related to the construction or operation of any facility under the Authority's jurisdiction. Failure to comply with the provisions of said paragraph will provide sufficient grounds for the withdrawal of any approval granted by the Authority, or the cancellation of any contract for support services related to the construction or operation of any facility within the Authority's jurisdiction.

(4) To the extent permitted by law, the Authority hereby adopts the following provisions with respect to feeder pipelines which may be connected with, or tapped into, facilities within the Authority's jurisdiction:

(a) Any application submitted to the Authority for a license to construct and operate offshore terminal facilities within the Authority's jurisdiction shall include a description of the locations where feeder pipelines are expected to be connected with, or tapped into, that facility, and a description of the size and proposed route for the feeder pipeline. If no such connections or taps are contemplated at the time of the submission of the application, the person submitting the application shall so state in writing;

(b) The information required in the preceding sub-paragraph must be provided for any proposed connection or tap for a feeder pipeline, which was not described in the application submitted to the Authority, at the same time that application is made to any governmental agency for permission to construct that pipeline, but before rights-of-way therefor are acquired, or construction thereof is commenced;

(c) In deciding whether to approve the construction of a proposed connection or tap for a feeder pipeline, the Authority shall consider the environmental stresses presented by that pipeline. The Authority shall not approve any connection with, or tap into, the facilities under its jurisdiction if such connection or tap may result in

a new feeder pipeline being located in the wetlands, which would violate the environmental objectives of the State of Louisiana. Connections or taps for new feeder pipelines which are adjacent to existing lines, structures, or modifications may be considered if they do not significantly increase the environmental stresses in the wetlands;

(d) The Authority shall determine whether to approve any such proposed connection or tap on a case-by-case basis.

CHAPTER 5

OPERATION AND ENFORCEMENT PROCEDURES[1/]

Section 1 - Statutory Authority

a - Subsection J(4) of RS 34:3113 requires that the Protection Plan "[p]resent details of how the operational aspects of the Authority development program will be conducted so as to minimize environmental problems, including but not limited to a monitoring program by appropriate public or private persons selected by the Board of Commissioners; establishment of constructional and operational guidelines for environmental protection; strong enforcement provisions and mechanisms to insure cleanup of accidental spills by technical means, with evidence of financial responsibility to insure performance of

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1/ Since the initial promulgation of the Protection Plan, Congress has enacted the Deepwater Port Act which provides for the authorization and regulation of the "location, ownership, construction and operation of deepwater ports in waters beyond the territorial limits of the United States." However, there are presently no regulations promulgated pursuant to that Act. Moreover, there exists the possibility that salt dome cavities may represent feasible receptacles for oil storage, although the Authority does not have sufficient information on salt-dome storage at this time to enable it to evaluate the concept. Also, the Protection Plan is designed primarily to protect the environment with respect to stresses from an oil transfer facility, although dry bulk transfer facilities may be developed in the future. Because promulgation of regulations under the Deepwater Port Act, use of salt-dome storage, or development of dry bulk transfer facilities could affect provisions of the Protection Plan with respect to such matters as stresses, site selection, design, construction, operation, funding, and coordination, the Authority may subsequently find it necessary to further amend the Protection Plan to include appropriate provisions where such uncertainties presently exist.

the cleanup, and compliance with the enforcement provisions of the environmental protection plan. The statute further states that the Protection Plan "shall consider the circumstances which may justify the temporary cessation of the port activities."

Section 2 - General Provisions

Subsection 1 - Implementation of Protection Plan.

a - Subsection G of RS 34:3113 provides that the three Directors shall carry out the requirements of the Protection Plan and that it "shall be an integral part of the Authority Development Program." Subsection A of RS 34:3113 requires that the details of the Protection Plan be "followed in all respects by the Executive Director in carrying out any aspect of the Authority Development Program."

b - The Authority shall provide such assistance as may be necessary to carry out the provisions of the Protection Plan.

c - An Environmental Director shall be employed by the Authority, which shall establish such qualifications, based on the recommendation of the three Directors, as may be necessary to assure that the person selected is professionally trained and experienced in environmental matters, and familiar with, and sensitive to, the needs and characteristics of the area in which the offshore terminal facilities are to be located.

d - The Environmental Director shall be under the direct supervision of, and responsible to, the Executive Director.

e - The Environmental Director shall, in addition to any other duties and responsibilities which may be assigned, have the following duties and responsibilities, provided that such functions shall be performed only with respect to activities, facilities and operations falling within the jurisdiction of the State of Louisiana and which are not otherwise accomplished by federal or other state authorities under applicable law

(1) Maintain such records as required by the Authority, including, but not limited to, inspection and maintenance records, records regarding the handling of oil and hazardous substances, records of monitoring and compensation programs, and records pertaining to pollution incidents, cleanup activities, and corrective measures taken in connection therewith;

(2) Implement, either alone or in cooperation and coordination with other officials who may be responsible, such monitoring, research, and compensation programs as may be necessary to compensate the environment for loss sustained through stresses resulting from the Authority development program;

(3) Establish inspection programs, to be conducted by representatives of the Authority, designed to insure frequent inspection

of all vessels, facilities, and operations within the Authority's jurisdiction;

(4) Monitor all operational and contingency plans approved by the Authority;

(5) Enforce compliance with the provisions of any operational and contingency plan in cases in which owners or operators fail to comply with the provisions of such plan;

(6) Enter into and maintain, on behalf of the Authority and with the approval of the Board of Commissioners, agreements with independent contractors and local, State, and federal agencies to provide personnel and equipment required to enforce or carry out the provisions of the Protection Plan and any operational and contingency plan;

(7) Serve as the representative of the Authority for the purposes of coordinating activities under the Regional and National Contingency Plans;

(8) Review operational and contingency plans periodically and recommend to the three Directors and the Board of Commissioners changes to such plans and corrective measures to minimize and prevent pollution incidents;

(9) Establish and maintain liaison with local, State and fed-

eral agencies having jurisdiction over any aspect of the Authority development program; and

(10) Prepare a report which shall be included in the annual report of the Board of Commissioners published pursuant to RS 34:3106A, and which shall contain the following information regarding matters within the Authority's jurisdiction:

(a) A description and quantification of any pollution incidents which occurred during the preceding year, as well as the impact of such pollution incidents;

(b) The cleanup activities undertaken as a result of such pollution incidents, and corrective action taken by the Authority, and by owners and operators to prevent the recurrence of such pollution incidents;

(c) The inspection, monitoring, research and compensation activities which were conducted or paid for by the Authority during the preceding year; and

(d) A summary of any research or studies by any person which would be relevant to the operation of the facility or which would further the maximum implementation of the Protection Plan or any operational and contingency plan.

f - When, in the opinion of the Environmental Director, any person subject to the Authority's jurisdiction is causing, engaging in, or maintaining a condition or activity which creates an emergency situation or presents an imminent or present danger to the public interest, health, or welfare of the State of Louisiana, or could result in damage to the environment, the Environmental Director shall recommend the issuance of an emergency order, or other appropriate action, as provided for under applicable law.

Subsection 2 - Operational and Contingency Plans.

a - Any person who applies to the Authority for a license to construct and operate offshore terminal facilities within the Authority's jurisdiction, shall submit to the Authority, as a part of such application, an operational and contingency plan. Such plan shall be in sufficient detail to describe the procedures to be followed in operating and maintaining offshore terminal facilities and shall include, but not be limited to, the following:

(1) A description of all equipment and facilities, including all safety, monitoring and pollution-prevention equipment, with plans and diagrams of all functional areas;

(2) A description of the operational organization and key personnel responsibilities;

(3) A description of normal operating procedures with respect to vessel movement and terminal functions;

(4) An activities checklist for emergency procedures to be followed in the event of fire, explosion, collision, or other emergency situations involving a vessel calling at the port or the offshore terminal facilities;

(5) A description of equipment to be used and procedures to be followed by tanker and deepwater port personnel during each phase

of the oil transfer operation including:

(a) Prearrival procedures;

(b) Hookup procedures;

(c) Pretransfer tests and inspections required, and personnel designated to perform these tests, including copies of check-off lists;

(d) Discharge prevention equipment;

(e) Transfer start-up procedures;

(f) Pumping rates to be employed under varying conditions;

(g) Throughput measurement system and any associated equipment;

(h) Discharge detection equipment, with alarms;

(i) Transfer shutdown procedures during normal operations and in emergencies; and

(j) Disconnect procedures; normal, emergency, and adverse weather.

(6) A description of the functions and general capabilities of other private organizations and governmental agencies which will provide services to the proposed offshore terminal facilities during emergency events. In the case of private organizations, the contractual or other arrangements for their participation shall be indicated;

(7) A description of inspection and maintenance procedures, including provisions for periodic testing of all oil transfer, safety and pollution-prevention equipment;

(8) A description of provisions for keeping records of maintenance and inspection activities, including provisions for submission of such records to the Authority;

(9) A description of procedures to be adopted for prevention and control of accidental discharges from the proposed offshore terminal facilities using the National Oil and Hazardous Substance Pollution Contingency Plan (40 CFR Part 1510) and appropriate regional plans as guidance. Describe procedures to be followed should such discharges occur. Such procedures must include the following parameters:

(a) Prevention systems. Describe the discharge prevention program, with special emphasis on high risk portions of the oil transfer system. Include control and instrumentation systems for emergency shutdown;

(b) Discovery and notification. Provide detailed information regarding equipment and procedures for discovery and containment of a discharge. Include the procedures for timely notification of the Authority. Also provide an up-to-date listing of names, telephone numbers and addresses of responsible persons and alternates to receive notification of a discharge as well as the names and telephone numbers of other federal, State and local government organizations and agencies to be notified;

(c) Evaluation and initiation of action. Describe the location of the deepwater port discharge response operations center, and the procedures used to evaluate the extent of the discharge and initiate action to combat the discharge. An identification particularly of environmentally critical areas for oil spills near the proposed offshore terminal facilities shall be included. A list and substance of agreements and arrangements for acquisition of additional personnel, equipment, material and supplies, as well as the established procedure for requesting assis-

tance as necessary, when the situation exceeds the limits of the deepwater port response capability, should also be provided;

(d) Containment and counter-measures. Describe procedures to be followed for containment and counter-measures based on various types of weather conditions, size of discharge, and equipment available. This shall include an identification of the order of priority in which various land uses are to be protected where more than one area may be affected as a result of an oil discharge; and

(e) Cleanup and disposal. Describe the procedures used to clean up and dispose of residue from a discharge. The procedures described should be based on varying sizes of discharges, weather conditions and equipment available.

(10) A description of procedures for reporting of all pollution incidents to the Authority, including a spill-prevention control and counter-measure plan and an oil and hazardous substance pollution contingency plan, or other similar plans, prepared in accordance with law. Such reports shall include:

(a) Report setting forth the quantity and cause of any pollution incidents;

(b) Report of cleanup activities and an evaluation of the effectiveness thereof;

(c) Report of the environmental impact of any pollution incident with the provisions for issuance of periodic supplemental reports thereafter until the Authority determines that substantial environmental recovery has been effected; and

(d) Corrective measures to prevent recurrence of similar pollution incidents.

(11) A description of procedures for cessation of appropriate activities in the following circumstances:

(a) Upon valid request of a duly authorized representative of the Authority;

(b) In the event of fire, explosion, severe storm, hurricane or other hazardous condition which endangers human life or the environment;

(c) In the event of malfunction or over-loading of any facilities or equipment resulting in State or federal water or air quality standards being exceeded; and

(d) In the event of malfunction of safety or pollution-prevention equipment in cases in which no back-up system is available for immediate use.

(12) A description of procedures for the handling and disposal of waste materials, whether treated or untreated, which shall include:

(a) Waste collection procedures;

(b) Spoil and waste disposal procedures and sites; and

(c) Operating procedures for treatment of such waste.

b - No person shall operate any offshore terminal facilities within the Authority's jurisdiction unless an Operational and Contingency Plan covering the operation of such facilities has been approved by the Authority incident to the issuance of a license by the Authority to such owner or operator.

c - Submission to the Authority of copies of the operations manual and contingency plan or other documents submitted to federal authorities in connection with an application for a license under the Deepwater Port Act shall be deemed satisfactory compliance with

this Subsection to the extent that information required in this Subsection is contained in such document. The owner or operator shall also timely submit to the Authority any amendments to such materials or supplementary information provided to federal authorities.

Subsection 3 - Anti-Pollution Policy.

a - Any person conducting operations or activities subject to the Authority's jurisdiction shall use all practicable means to conduct all such operations and activities in a manner which will assure the fullest protection of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.

b - No person subject to the Authority's jurisdiction shall discharge any pollutants in any quantities or concentrations which exceed applicable local, State, or federal standards or which violate any regulation of the Authority.

c - Any person responsible for a prohibited discharge shall immediately take all appropriate steps to abate and cleanup the discharge to the Authority's satisfaction. Notwithstanding the foregoing requirement, the Authority may undertake the abatement and cleanup of the discharge whenever the person responsible for such abatement and cleanup fails to take appropriate action and all costs associated with the abatement and cleanup of the discharge will be charged to the person responsible for the discharge.

Section 3 - Financial Responsibility

a - Subsection J(4) of RS 34:3113 requires the posting of "evidence of financial responsibility to insure performance" of the enforcement and cleanup provisions of this Protection Plan.

b - In view of the security provided by the Louisiana Environmental Protection Fund and the security required under the Deepwater Port Act, the Authority finds that there is no present need to require the posting of additional evidence of financial responsibility.

c - However, the Authority will review periodically the need for such security. Any such security required will be conditioned on the licensee's compliance with the requirements of the Authority's rules and regulations and any conditions otherwise imposed by the Authority. The specific amount of any such security shall be established by the Authority by amendment to this provision and shall be based on a thorough consideration of all environmental stresses involved and other forms of security provided through the Louisiana Environmental Protection Fund, or under federal law or voluntary agreements. In no event shall security be required under this Section which duplicates requirements of federal law.

d - Owners or operators must file an application for a certificate of financial responsibility at least 60 days in advance of any construction, use, or operation of any deepwater port facility or

other property subject to the Authority's jurisdiction.

e - The Authority shall provide the required application form which shall be appended to, and incorporated as part of, this Protection Plan.

f - Applications will be processed in order of receipt; provided, however, that requests for expedited consideration will be granted if good cause is shown by the applicant. Every application filed pursuant to this Section, whether for original issuance of a certificate or renewal thereof, must be accompanied by an application fee as per schedule to be annexed hereto, adopted by amendment to this provision.

g - All applications, evidence, documents, and other statements required to be filed with the Authority shall be in English, and any monetary terms shall be expressed in terms of United States currency. The Authority shall have the right to verify any statements made, or evidence submitted, under this Section.

h - Any security obligation filed with the Authority hereunder shall be issued by a person authorized to do business in the State of Louisiana and acceptable to the Authority, in the amount required by this Section.

i - The security obligation submitted to the Authority hereunder shall set forth in full the correct name of the person to whom

the certificate is to be issued and shall be signed by a duly authorized officer or representative of the applicant and submitted with evidence of his authority.

j - In the event of any nonmaterial change in the facts as reflected in the application, the applicant or certificant shall notify the Authority in writing immediately, and in no event later than fifteen (15) working days following such change. For the purpose of this Section, a nonmaterial change shall be one which does not result in an increase in the amount of financial responsibility necessary to qualify for a certificate under this Section.

k - If for any reason (including a vessel's demise, sale, or transfer) a certificant ceases to be responsible hereunder, the certificant shall, within five (5) working days, submit the following written information to the Authority:

(1) The number of the certificate and the name and description of the vessel or property involved;

(2) The date on which the certificant ceased to be liable;

(3) The name and mailing address of the person to whom the vessel or property involved was sold or transferred, if any; and

(4) The location of the vessel or property on the date indi-

cated in subparagraph (2) of this paragraph.

l - Each person subject to the provisions of this Chapter, including any applicant, insurer or surety, shall furnish a written designation of a person in the State of Louisiana as agent for service of legal process. Such designation must be acknowledged, in writing, by the designee. In any instance in which the designated agent cannot be served because of his death, disability, or unavailability, the Secretary of State of Louisiana will be deemed to be the agent for service of process. When serving the Secretary of State in accordance with the above provision, the Authority shall also attempt service on the certificant, insurer or surety as the case may be, by forwarding a copy of the process by registered mail to its last known address on file with the Authority.

m - If any security obligation filed with the application does not comply with the requirements of these rules and regulations, or if for any reason fails to provide adequate or satisfactory protection as required by law, the Authority shall notify the applicant, as promptly as possible, stating the deficiencies thereof.

n - Confidential financial data filed in connection herewith shall be afforded the same protection given in the Courts of this State.

o - Whenever a security obligation has been filed properly in

accordance with these rules and regulations, the Authority shall issue a separate certificate covering each vessel or other property involved, evidencing the Authority's finding of adequate financial responsibility to meet the requirements of these rules and regulations. Each certificate shall be valid for one year, or for such longer period as has been specified thereon.

p - The certificate issued pursuant to these rules and regulations, or a copy thereof, must be immediately available to the public at all times, at the property or operation to which the certificate relates. Where it would be physically or practically impossible for the certificate, or a copy thereof, to be immediately available, the Authority shall be so notified, and the certificate shall be retained at a specified location in the State of Louisiana and kept readily available for public inspection.

q - A certificate shall become null and void upon cancellation or termination of the security obligation, or as otherwise provided under these rules and regulations.

r - No security obligation filed with the Authority hereunder shall be released until the Authority has certified that the property or operation for which such security was posted has not been a source of pollution for which any liability remains outstanding.

Section 4 - Construction Guidelines

a - All offshore terminal facilities within the Authority's jurisdiction shall be constructed in accordance with the requirements stated in this Section.

b - Construction of such facilities shall be performed in a manner that will minimize, to the fullest extent possible, all actual and potential stresses on the natural and human environment, and shall be conducted in accordance with applicable industry standards and those of local, State, and federal agencies.

c - The Authority's inspection of the construction of any offshore terminal facilities within the Authority's jurisdiction shall be coordinated with monitoring and inspection programs conducted by the Louisiana Wild Life and Fisheries Commission or appropriate public or private persons selected by the Board of Commissioners.

d - Construction features, constructed by or at the direction of an owner or operator, such as canals, roads, fill areas, dikes, and bulkheads, shall be considered facilities for the purposes of the inspection and maintenance required by an owner or operator under paragraph b of Subsection 1 of Section 5 of this Chapter, unless otherwise designated by the Authority.

e - All work areas shall be physically maintained at the highest standards reasonably possible. In any case when, after notice,

a person fails to comply with this regulation, the Authority may pay such costs as may be necessary to assure compliance, and charge such amounts against the responsible owner or operator involved. All contracts for construction of offshore terminal facilities within the Authority's jurisdiction shall contain specific reference to this requirement.

f - All liquid and solid waste from the construction of offshore terminal facilities within the Authority's jurisdiction shall be handled, treated, and disposed of in accordance with the regulations of, and procedures approved by, federal, State, and local agencies.

g - All equipment, facilities, and systems shall be certified as required by law and shall be tested as necessary to assure their proper operation.

h - Any person engaged in construction of offshore terminal facilities within the Authority's jurisdiction shall obtain all necessary Federal and State permits prior to commencing such work and to the fullest extent possible will follow the following guidelines in the performance of such work:

(1) Use existing work areas, facilities, and access routes;

(2) Avoid interference with the patterns of any littoral drift and littoral currents;

(3) Avoid interference with, or disruption of, natural drainage or natural water circulation;

(4) Prevent saltwater intrusion into existing surface or underground fresh water bodies;

(5) Avoid closing off, or changing the configuration of, existing tidal passes;

(6) Perform dredging operations in a manner which will not significantly affect marine organisms outside of the immediate dredge and spoil areas;

(7) Obtain fill material from areas approved by the Louisiana Wild Life and Fisheries Commission or other appropriate governmental agencies, and in doing so, avoid any possible loss of habitat or any increase in the rate of erosion;

(8) Refrain from any activity which might significantly increase the rate of erosion;

(9) Provide for initiation, implementation, and completion of appropriate action to insure compensation of areas damaged by construction activities; and

(10) Avoid interference with, or disruption of, spawning activities or natural migration and movements of any aquatic animals.

Section 5 - Operational Guidelines

Subsection 1 - General Provisions.

a - All offshore terminal facilities within the Authority's jurisdiction shall be operated in accordance with the requirements stated in this section.

b - Operation of all offshore terminal facilities within the Authority's jurisdiction shall be conducted in a manner that will minimize, to the fullest extent possible, all actual and potential stresses on the natural and human environment, and all such operations shall be conducted strictly in accordance with applicable industry standards and those of local, State, and federal agencies, and in accordance with the provisions of any operational and contingency plan covering such operations.

c - Any owner or operator shall perform regular inspection and maintenance of such facilities in accordance with approved operational and contingency plans.

Subsection 2 - Operator Training and Performance.

a - All operating personnel whose activities may directly or indirectly affect safety or the environment shall be qualified under industry standards to perform the duties to which they are assigned and shall be licensed and certified in accordance with law.

b - The Executive Director, or his duly authorized representative, may, at any time, require evidence showing that any operator is qualified to perform his duties or is properly licensed or certified.

c - Whenever it is determined by the Executive Director, or his duly authorized representative, that any individual is not qualified to perform his duties, not properly certified or licensed, or has been guilty of deliberate or flagrant disregard of any environmental or safety regulations or procedures, such individual may be prohibited from performing further duties with respect to matters subject to the Authority's jurisdiction. A hearing concerning any such action, when requested, must be conducted by the Authority within five days thereafter.

Subsection 3 - Navigation and Mooring.

a - Any owner or operator of any offshore terminal facilities within the Authority's jurisdiction shall not permit the use of such facilities by any vessel which fails to meet all applicable standards and regulations of any federal or State agency having jurisdiction over the matter involved.

b - The Authority shall take all appropriate measures to insure cooperation with the United States Coast Guard, and any other appropriate federal agency or department, to encourage and assist

in the development of regulations pertaining to:

(1) Establishment and marking of mandatory navigational fairways for vessels using deepwater port facilities;

(2) Radar monitoring of vessels in the vicinity of deepwater port facilities;

(3) Vessel traffic control systems for vessels using deepwater port facilities;

(4) Fairway navigational aids;

(5) Use of mooring masters on tankers using deepwater port facilities; and

(6) Designation of safe anchorage areas for vessels using deepwater port facilities.

Subsection 4 - Transfer, Transportation and Storage of Oil and Hazardous Substances.

a - All transfer, transportation, storage or other handling of oil and hazardous substances subject to the Authority's jurisdiction shall comply with all applicable industry standards and regulations and standards of local, State, and federal agencies, and shall minimize, to the fullest extent possible, all actual and potential environmental stresses.

b - When necessary for the regulation of matters subject to the Authority's jurisdiction, the Authority shall take all appropriate measures to enter into agreements with the United States Coast Guard, or any other appropriate federal, State, or local agency, regarding administration and enforcement of regulations pertaining to transfer, transportation and storage of oil and hazardous substances.

Subsection 5 - Waste Disposal.

a - Each owner or operator shall comply with all applicable regulations and standards pertaining to disposal of wastes.

b - No owner or operator shall permit any outdoor burning of waste materials, including oil, except as permitted under provisions of the Louisiana Air Control Commission regulations, and as specifically approved by the Authority.

Section 6 - Monitoring Programs

a - Subsection J(4) of RS 34:3113 requires "a monitoring program by appropriate public or private persons selected by the Board of Commissioners" as an operational aspect of the Authority development program. The Act further requires "that the Authority Development Program be pursued so that there is full coordination and cooperation between agencies and groups that have complementing or overlapping interests and the Authority." (RS 34:3114A). However, the

Act further provides that nothing contained therein "is intended to diminish in any way the authority of the Louisiana Wild Life and Fisheries Commission." (RS 34:3113K).

b - The Authority shall establish and maintain, with the approval of the Louisiana Wild Life and Fisheries Commission, such monitoring programs as recommended by the three Directors and approved by the Board of Commissioners. Any monitoring program approved hereunder shall be designed to accomplish only the surveillance of the Authority development program and shall include, but not be limited to, monitoring of:

(1) The environmental stresses caused by oil spills and other polluting instances;

(2) The air and water pollution levels in the Louisiana coastal environment;

(3) The offshore water column and offshore benthos;

(4) Shoreline, estuarine marsh, and freshwater swamp vegetation and fauna;

(5) The number, movement, and spawning and breeding cycles of wildlife in the Louisiana coastal environment;

(6) Saltwater intrusion;

(7) Water circulation and drainage; and

(8) Shoreline erosion and erosion along pipeline canals.

c - The Authority shall take necessary measures to enter into an agreement with the Louisiana Wild Life and Fisheries Commission regarding the development and implementation of a monitoring program undertaken by appropriate public and private persons selected by the Board of Commissioners pursuant to RS 34:3113J(4).

d - To the extent possible, monitoring programs shall be coordinated with programs conducted by universities and local, State, and federal agencies.

e - The Authority shall take all necessary steps to insure that monitoring stations are established for all offshore terminal facilities within the Authority's jurisdiction and at such other places as may be appropriate. Monitoring stations used for an initial project assessment shall be utilized whenever appropriate.

f - Monitoring techniques may include standard air, water, and sediment sampling and analysis methods; visual observation from aircraft, boats, marsh vehicles, land vehicles, and from persons on foot; aerial photographs, including infra-red techniques; and standard marine population sampling techniques.

g - Before the establishment of any monitoring program, the

three Directors and the Board of Commissioners shall actively solicit the advice, consultation, and recommendations of recognized environmental organizations and environmental specialists.

h - The Authority shall take all necessary steps to insure that an immediate investigation is made of the cause and effect of any stresses indicated by monitoring of the Authority development program by the Louisiana Wild Life and Fisheries Commission or any other State or federal agency.

Section 7 - Approval Of Projects And Activities

a - This Protection Plan shall be followed throughout all aspects of the Authority development program. All offshore terminal facilities within the Authority's jurisdiction, which directly or indirectly affect the environment, must be approved by the Authority before construction or operation thereof commences.

b - The Authority may impose, in any license issued by it for construction and operation of offshore terminal facilities within the Authority's jurisdiction, all conditions which it deems necessary to protect Louisiana's environment.

c - Every approval granted by the Authority shall include a reference to the liability provisions of this Protection Plan and shall also include, as a condition of such approval, a provision stating that the holder thereof specifically agrees to be bound by

all conditions imposed therein by the Authority, and by all of the Authority's rules and regulations.

d - Any application to the Authority for a license to construct and operate offshore terminal facilities within the Authority's jurisdiction shall contain the following information:

(1) A general description of the proposed project, including the description of the proposed site, design, and construction schedule;

(2) A general description of the environmental stresses reasonably expected to result from the proposed project;

(3) A general statement of the economic aspects of the proposed project, including its economic feasibility, estimated project cost, and method of financing;

(4) A statement of the relationship between the proposed project and any other actual or proposed aspect of the Authority development program;

(5) A statement of the reasonable alternatives to the proposed project;

(6) A detailed description of the proposed project including details of the design, location, construction (including the construction schedule), operation, and phase-out plans for the

proposal;

(7) A complete environmental inventory of the areas immediately affected by the proposed project which shall include all environmental information necessary for a proper evaluation of the proposal;

(8) A detailed inventory of all actual and potential stresses on the natural and human environment which are expected to occur in pursuing the proposed project;

(9) A detailed statement establishing compliance with the provisions of the Protection Plan regarding design and selection of sites for the proposed project;

(10) A detailed description of the economic aspects of the proposed project including a statement of project costs and financial arrangements; and

(11) A statement of any irreversible and irretrievable commitment of resources occasioned by the proposed project.

e - The Authority may require submission of such additional information or supporting data as it deems necessary for a full and complete consideration of any such license application.

f - Any person making application to the Authority for a license to construct and operate offshore terminal facilities within

the jurisdiction of the Authority, shall provide the Authority with a copy of any environmental assessment relating to the proposed project and prepared under any other law, in fulfillment of the requirements of this Section of the Protection Plan, to the extent that any such environmental assessment contains information which is relevant and specifically designated and cross-referenced to the rules and regulations to which information relates.

g - The Authority shall actively solicit the advice, technical assistance and recommendations of such professional, technical, and scientific personnel as may be required for the proper evaluation and consideration by the Authority of any license application project proposal submitted for consideration by the Authority.

h - The Authority may approve or deny (or approve conditionally) in whole or in part, any license application for environmental reasons, and shall, upon request, state such reasons in detail.

i - The Authority shall not issue a license authorizing unconditionally the operation of offshore terminal facilities within the Authority's jurisdiction unless an operational and contingency plan covering such facilities has been approved as provided in the Authority's rules and regulations.

j - The Authority shall not approve the construction or operation of any offshore terminal facilities within the Authority's ju-

risdiction unless it is first determined that:

(1) the person requesting approval is financially responsible and has demonstrated his ability and willingness to comply with applicable laws, regulations, and conditions of approval;

(2) the activities or facilities will be designed, located, constructed and conducted in a manner which will minimize or prevent any significant adverse environmental affects. In making this determination, the Authority shall consider all significant aspects of the activity or facility including any relation to:

(a) Effects on marine organisms;

(b) Effects on air and water quality

(c) Effects on ocean current and wave patterns and on nearby shorelines and beaches;

(d) Effects on drainage and water circulation patterns;

(e) Effects on alternative uses of the ocean such as fishing, aquaculture, and scientific research;

(f) Susceptibility to damage from storms and other natural phenomena;

(g) Effects on aesthetic and recreational values;

(h) Effects on land loss and erosion;

(i) Effects on ambient noise level; and

(j) Energy requirements needed to carry out the described operations or processes;

(3) Adequate baseline data is available concerning the proposed project.

k - Before approval of a license application may be granted, all proposed construction projects which may significantly affect the environment of any particular area shall be advertised by the Authority, by publishing a general statement similar in form and content to the notice published in the Federal Register in connection with an application for a license under the Deepwater Port Act of 1974, as to the nature of the proposed project once a week for three consecutive weeks in the Authority's official journal and in a daily newspaper in the locality or localities most affected by the proposed project. This provision shall not apply in cases of emergency, certified as such by the Authority; provided, however, that the Authority shall publish notice of the construction project and the nature of the emergency involved in the same manner as provided herein for proposed projects.

l - All information relating to license applications filed with the Authority, other than documents designated by the applicant as involving trade secrets or confidential information, shall be available for public inspection, at the Authority's office for at least thirty days prior to granting of any approval authorizing construction.

m - Each owner or operator shall establish and maintain such records, make such reports and provide such information as the Au-

thority shall reasonably require or request. Each such owner or operator shall submit such reports and make available such records and information to the Authority as required under this Protection Plan or under other rules and regulations of the Authority.

n - Any contract for the construction and operation of an oil terminal as an interstate common carrier shall contain a provision making all parts of the Protection Plan applicable to said contract. In no event shall any such contract extend the jurisdiction of the State or the Authority to areas where such jurisdiction would not otherwise exist.

Section 8 - Inspection

a - Any duly authorized representative of the Authority is authorized to enter, at all reasonable times, and inspect any offshore terminal facilities within the Authority's jurisdiction, for the purpose of inspecting or investigating conditions in order to ascertain the state of compliance with the Act, this Protection Plan and other rules, regulations and orders of the Authority.

b - Such representative of the Authority may inspect, at reasonable times, relevant records, files, papers, processes, controls, operations, and facilities for the purpose of ascertaining the state of compliance with the Act, this Protection Plan and other rules, regulations and orders of the Authority.

c - No person shall refuse immediate entry or access to any authorized representative of the Authority who requests entry for purposes of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection.

d - The Authority representative shall prepare a report, setting forth the results of inspections, which shall be available, upon request, to the owner or operator of the facility or operation involved.

e - Upon refusal by an owner or operator to permit a representative of the Authority to enter and inspect as provided in this Section, the Authority's representative shall either terminate the inspection or confine the inspection to other areas, structures, materials, records, or operations not subject to objection.

f - The Authority's representative shall endeavor to ascertain the reason for any such refusal, and he shall immediately report the refusal and the reason therefor to the Executive Director who shall promptly take such appropriate action as may be warranted to assure compliance with these inspection provisions.

g - Advance notice of inspections need not be given, but such notice may be given: (1) In cases of apparent imminent danger to enable the owner or operator to abate the danger as quickly as pos-

sible; (2) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection; (3) where necessary to assure the presence of representatives of the owner or operator or the appropriate personnel needed to aid in the inspection; and (4) in circumstances in which advance notice would enhance the probability of an effective and thorough inspection.

h - At the beginning of an inspection any representative of the Authority shall present his credentials to the person in charge; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and any records which he wishes to review. However, such designation of records shall not preclude access to additional records not specified previously.

i - Representatives of the Authority shall have authority to take samples and measurements, and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of any offshore terminal facilities within the Authority's jurisdiction.

j - The Authority's representatives shall make every reasonable effort to conduct inspections so as to preclude unnecessary disruptions, consistent with the requirements and intent of these inspection provisions.

Section 9 - Administrative and Judicial Procedures

Subsection 1 - Administrative Procedures.

a - Whenever any violation of this Protection Plan, the Authority's General Rules and Regulations, or any condition of a license issued by the Authority or an approval granted by the Authority pursuant to this Protection Plan is threatened, or whenever such violation is occurring or has occurred, the Authority shall initiate and pursue appropriate administrative procedures and may issue such orders and decrees as may be necessary and authorized by the Authority's General Rules and Regulations.

b - Except in the case of emergency orders as provided for herein, orders and decrees shall be issued only after an adjudicatory hearing. The General Rules and Regulations of the Authority govern the hearing requirements applicable to adjudicatory proceedings.

c - An order or decree issued by the Authority may require the person served with such order to cease and desist the acts complained of forthwith, or in accordance with such other requirements as the Authority may deem warranted. The person served with such an order may be required to take appropriate remedial or preventive action.

d - Whenever, in the opinion of the Authority, any person is engaging, or threatens to engage, in any act or practice which may constitute a violation of any final order or decree of the Author-

ity, the Authority shall promptly take appropriate action to assure the imposition of available sanctions.

e - When, in the opinion of the Authority, a person is causing, engaging in, or maintaining a condition or activity which creates an emergency situation, presents an imminent or present danger to the public interest, health, or welfare of the State, or could result in damage to the environment, the Authority may, without prior hearing, issue an emergency order requiring that the person believed to be responsible for the situation discontinue, abate, or alleviate such condition or activity, pending a hearing. The proscribed condition or activity shall be immediately discontinued, abated, or alleviated, upon receipt of notice of such emergency order.

f - In all cases involving issuance of emergency orders, the Board of Commissioners shall schedule a hearing within 48 hours. The scheduling of a hearing shall not stay the operation of any emergency order issued by the Authority.

g - The Authority may institute an administrative proceeding in accordance with the Authority's General Rules and Regulations, to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the State, subject to the Authority's jurisdiction, caused by any violation of the Protection Plan. After a hearing, the Board of Commissioners may issue any order which may be warranted, including the im-

position of fines.

h - If the Authority has reason to believe a violation of any applicable rule or regulation, or condition of a license issued by the Authority, has occurred, it may institute an administrative proceeding to assure compliance or obtain other appropriate corrective action, in accordance with the Authority's General Rules and Regulations.

i - Any person who violates any order of the Authority, any provision of this Protection Plan, any other rule or regulation of the Authority, or any condition of a license issued by the Authority, will be subject to such fines as provided by law.

Subsection 2 - Judicial Procedures.

a - The Authority shall initiate and pursue all appropriate judicial and administrative remedies to assure compliance with the provisions of this Protection Plan.

b - The Authority may institute a civil or criminal action in a court of competent jurisdiction to enforce the provisions of this Protection Plan.

c - The Authority may institute a civil action in a court of competent jurisdiction to impose and to recover such penalties as may be applicable.

d - The Authority may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this Protection Plan or any rule, regulation, license, certificate, or order, to enjoin any violation and to prevent irreparable injury to the air, waters, and property, including animal, plant, and aquatic life of the State, within the Authority's jurisdiction, and to protect human health, safety, and welfare caused or threatened by any violation.

e - In addition to the remedies specified above, the Authority may seek any other appropriate administrative or judicial remedies not specified above, including the institution of criminal and admiralty proceedings.

f - All the judicial and administrative remedies set forth herein are independent and cumulative except that full monetary damages shall only be recovered one time.

Section 10 - Laws of Other Agencies.

The Authority shall actively assist all federal and State agencies, including, but not limited to those specified in Chapter 7 of this Protection Plan, in enforcing the environmental laws and regulations within its jurisdiction; and, to the fullest extent possible, the Authority shall also seek the assistance of those agencies to complement the efforts of the Authority to protect the environment in accordance with this Protection Plan.

CHAPTER 6

FUNDING OF ENVIRONMENTAL PROGRAMS

Section 1 - Statutory Authority

a - State Law

(1) The Environmental Protection Plan is required to "present details of how the operational aspects of the Authority development program will be conducted so as to minimize environmental problems, including but not limited to a monitoring program by appropriate public and private persons selected by the Board of Commissioners" and "strong enforcement provisions and mechanisms to insure cleanup of accidental spills by technical means." [RS 34:3113J(4)].

(2) The Act also requires that the Protection Plan set forth "procedures for funding of projects to be paid for by the Authority to the Louisiana Wild Life and Fisheries Commission or any other agency designated by the governor which shall compensate the coastal environment for loss that may be sustained through the stresses on the environment created by the Authority Development Program." [RS 34:3113J(5)].

(3) The Authority is "vested with exclusive and plenary authority to do any and all things necessary" (RS 34:3109A) and is "empowered to take all necessary steps to protect Louisiana's unique

coastal environment from any short-term or long-term damage or harm which might occur from any aspect of the Authority Development Program." (RS 34:3109D).

(4) The Authority is empowered "to fix reasonable and just rates, fares, tolls or charges for the services and facilities" within its jurisdiction, and "to collect tolls and fees." [RS 34: 3109A(8) and RS 34:3109C(6)].

(5) The Act states as its policy "that the Authority Development Program be pursued so that there is full coordination and cooperation between agencies and groups that have complementing and overlapping interests and the Authority", and "that the appropriate federal agencies which are required by federal law to plan or regulate transportation facilities or programs are consulted regularly and are fully involved in the Authority Development Program where appropriate." (RS 34:3116A and D).

b - Federal Law

(1) Section 2(a)(3) of the Deepwater Port Act of 1974 (33 USC 1501, et seq.) declares that it is the purpose of that Act to "protect the interests of . . . adjacent coastal States in the location, construction, and operation of deepwater ports."

(2) Section 2(a)(4) of the Deepwater Port Act declares

that it is the purpose of that Act to "protect the rights and responsibilities of States and communities to regulate growth, determine land use, and otherwise protect the environment in accordance with law."

(3) Section 5(h)(2) of the Deepwater Port Act provides that an adjacent coastal State may fix reasonable fees for the use of a deepwater port facility and directly related land-based facilities as compensation for any economic, administrative or environmental costs attributable to the construction and operation of such deepwater port and such land-based facilities. Such fees "shall not exceed such economic, environmental, and administrative costs of such State" and shall be subject to the approval of the Secretary of Transportation.

(4) Section 18(k)(1) of the Deepwater Port Act expressly recognizes the right of States to impose "additional requirements or liability for any discharge of oil from a deepwater port or a vessel within a safety zone."

(5) Section 18(e) of the Deepwater Port Act imposes liability without regard to fault, up to $50,000,000, on the licensee of a deepwater port for cleanup costs and damages that result from a discharge of oil from such deepwater port or from a vessel moored at such deepwater port.

(6) Under Section 18(d) of the Deepwater Port Act, the owner or operator of a vessel is made liable without regard to fault, up to $20,000,000, for cleanup costs and damages that result from a discharge of oil from such vessel within any safety zone, or from a vessel which has received oil from another vessel at a deepwater port, except when such vessel is moored at a deepwater port.

(7) When a discharge of oil from a deepwater port or from a vessel moored at such deepwater port, or when a discharge of oil from a vessel within a safety zone or from a vessel which has received oil from another vessel at a deepwater port, except when such vessel is moored at a deepwater port, is the result of gross negligence or willful misconduct within the privity and knowledge of the licensee of such deepwater port, or the vessel owner or operator, respectively, such licensee is made liable under Section 18(c) of the Deepwater Port Act, and such vessel owner or operator is made liable under Section 18(d) of that Act, for the full amount of all cleanup costs and damages resulting from the discharge.

(8) Section 18(f) of the Deepwater Port Act establishes a Deepwater Port Liability Fund and provides that it shall be liable for all cleanup costs and damages "in excess of those actually compensated" by the licensee of a deepwater port or the owner or operator of a vessel pursuant to Section 18(d) and 18(e) of the Deepwater Port Act.

Section 2 - Findings of the Authority

In view of the liabilities imposed under the Deepwater Port Act, and in order to avoid unnecessary duplication of environmental protection measures, the Authority finds that there is presently no need for it to impose additional liability with respect to those discharges of oil prohibited by the Deepwater Port Act, specifically, the discharge of oil into the marine environment from a vessel within any safety zone, from a vessel which has received oil from another vessel at a deepwater port, or from a deepwater port.[1/]

Section 3 - Louisiana Environmental Protection Fund

a - There is hereby established a "Louisiana Environmental Protection Fund" and the monies in the Fund shall be disbursed by the Authority to pay for the environmental costs[2/] of the State of Louisiana attributable to the construction and operation of deepwater port and related land-based facilities.

1/ There is presently pending in Congress proposed legislation, such as HR 9294, which, if enacted, would impose liability for offshore oil spill cleanup costs and damages, would create a comprehensive scheme for the recovery of such cleanup costs and damages, and may supercede the provisions of the Deepwater Port Act relative to liability and compensation for oil spill cleanup costs and damages.

2/ See Section 4.

b - There shall be credited to the Fund:

(1) Environmental compensation fees and any interest thereon collected by the Authority pursuant to the Authority's Rules and Regulations Applicable to Fees, Costs and Charges;

(2) Monies recovered by the Authority, including claims for cleanup costs and damages, as a result of legal action, a demand for payment, or a compromise or settlement of a claim by the Authority, related to the purposes of the Fund;

(3) Fines and civil penalties imposed by the Authority; provided, however, that the imposition of a fine or civil penalty against a licensee shall not affect such licensee's liability for the payment of environmental compensation fees;

(4) Monies received by the Authority under State and federal programs for projects related to the purposes of the Fund;

(5) Interest received from investment of monies in the Fund; and

(6) Other revenues, from whatever source derived, which are credited to the Fund by the Board of Commissioners.

c - Monies in the Fund not needed to meet current obligations shall be handled as provided by law and in accordance with prudent

financial principles.

d - Because the Fund is for the purpose of compensating the State of Louisiana for environmental costs attributable to the construction and operation of deepwater port and related land-based facilities, private damages claimed by any person allegedly resulting from any aspect of such construction or operation shall not be recoverable against the Fund. Such persons may pursue such remedies as are provided by law.

Section 4 - Environmental Costs

The term "environmental costs" shall include those costs incurred by or on behalf of the Authority to carry out its environmental responsibilities, including costs incurred to:

(1) Administer and amend the Authority's Environmental Protection Plan;

(2) Conduct appropriate environmental monitoring and inspection programs related to the construction and operation of deepwater port and related land-based facilities;

(3) Prevent loss or damage to the Louisiana environment from the construction and operation of deepwater port and related land-based facilities;

(4) Compensate the Louisiana environment for loss or damage attributable to the construction and operation of deepwater port and related land-based facilities;[3/]

(5) Conduct research projects related to construction and operation of deepwater port and related land-based facilities; and

(6) Abate and cleanup any discharges of oil, or any other substance, which the Authority determines has caused or may cause loss or damage to the Louisiana environment, attributable to the construction and operation of deepwater port and related land-based facilities, when the person responsible for such discharge has failed or refused to take appropriate action to cleanup or abate the discharge.

Section 5 - Environmental Compensation

a - Should any loss or damage attributable to the construction and operation of deepwater port and related land-based facilities occur to the Louisiana environment, the licensee shall take appropriate action to compensate the environment for such loss or damage.

b - If the licensee fails or refuses to provide appropriate en-

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3/ See Section 5.

vironmental compensation, the Authority, either directly or incoordination with any other appropriate agency, may take such measures as the Authority deems necessary to compensate the environment for such loss or damage. The Authority will thereafter seek to recover from such licensee the costs thus incurred by or on behalf of the Authority.

c - Environmental compensation shall consist of:

(1) repair, rehabilitation and restoration of damaged areas of the environment; or

(2) when such repair, rehabilitation and restoration is not feasible: (a) acquisition, improvement or enhancement of related areas of the environment, when it will directly offset and compensate for the loss or damage to the environment; or (b) research projects reasonably related to providing data to assist in future prevention or compensation of damaged areas of the environment.

d - Nothing in this Chapter shall be construed or interpreted to preclude or limit in any way any right which the Authority might have to recover, under applicable law, for loss or damage to the Louisiana environment.

Section 6 - Research Projects

a - The Authority may establish and maintain, either alone or in cooperation with other appropriate State or federal agencies, such research projects related to construction and operation of deepwater port and related land-based facilities, as recommended by the three Directors and approved by the Board of Commissioners. Such research projects may include:

(1) Research on the environmental stresses caused by oil spills and other polluting instances;

(2) Studies to determine the economic loss resulting from environmental stresses;

(3) Erosion control studies;

(4) Studies designed to measure the capacity of selected areas of the Louisiana coastal wetlands to absorb environmental stresses;

(5) Studies to determine the effects of pipelines on the coastal environment;

(6) Studies of chronic pollution;

(7) Studies to develop improved methods for the prevention,

containment, and removal of oil spills;

(8) Water management and circulation studies; and

(9) Studies of methods to minimize the visual impact of man-made structures in offshore or wetlands areas.

b - The three Directors shall be provided with such information and technical assistance as may be necessary for them to monitor all research projects under this Section, and for them to recommend such additional projects as they feel are necessary to evaluate actual or potential loss or damage caused by the construction and operation of deepwater port and related land-based facilities, and to assure that Louisiana's environment is protected.

c - All information regarding any proposed research project shall be available to the public for inspection in the Authority's office for at least thirty days prior to approval of such research project by the Board of Commissioners; to the extent possible, such information shall be mailed to all persons who have made timely request of the Authority for advance notice of its consideration of such research projects.

CHAPTER 7

COORDINATION AND COOPERATION[1/]

Section 1 - Statutory Authority

a - Subsection J(6) of RS 34:3113 states that the Protection Plan shall "[a]nalyze ongoing programs of the federal, State and local governments designed to protect the coastal environment and so as to insure that there is no unnecessary duplication of effort and to insure that cooperation and coordination of environmental protection measures are achieved. The opinion of all agencies with a responsibility for monitoring the coastal environment shall be sought with regard to this Environmental Protection Plan prior to its promulgation, to determine if there are incompatibilities between spe-

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1/ Since the initial promulgation of the Protection Plan, Congress has enacted the Deepwater Port Act which provides for the authorization and regulation of the "location, ownership, construction and operation of deepwater ports in waters beyond the territorial limits of the United States." However, there are presently no regulations promulgated pursuant to that Act. Moreover, there exists the possibility that salt dome cavities may represent feasible receptacles for oil storage, although the Authority does not have sufficient information on salt-dome storage at this time to enable it to evaluate the concept. Also, the Protection Plan is designed primarily to protect the environment with respect to stresses from an oil transfer facility, although dry bulk transfer facilities may be developed in the future. Because promulgation of regulations under the Deepwater Port Act, use of salt-dome storage, or development of dry bulk transfer facilities could affect provisions of the Protection Plan with respect to such matters as stresses, site selection, design, construction, operation, funding, and coordination, the Authority may subsequently find it necessary to further amend the Protection Plan to include appropriate provisions where such uncertainties presently exist.

cific provisions of this measure and requirements of other rules and regulations."

b - RS 34:3116A states that "[i]t is the policy of this Act that the Authority Development Program be pursued so that there is full coordination and cooperation between agencies and groups that have complementing or overlapping interests and the Authority. It is not the policy of this Act that the Authority Development Program be pursued independently and with a view toward narrow, short term interests."

c - RS 34:3116B states "[t]he board of commissioners shall take affirmative steps to fully coordinate all aspects of the Authority Development Program with the Louisiana Advisory Commission on Coastal and Marine Resources (Act No. 35 of 1971) or its successor group, which is charged with the development of a coastal zone management plan for the state."

d - RS 34:3116C states that "[t]he board of commissioners shall take affirmative steps to insure that the Authority Development Program is coordinated into the planning programs of other modes of transportation, to include rail, road, waterway, air and pipeline, so that there is a long term and orderly pursuit of transportation services in the coastal zone which are interrelated and coordinated so as to achieve the most efficient and economical transportation program that is feasible and that will be least destructive of other values in the

state."

e - RS 34:3116D states that "[t]he board of commissioners shall insure that the appropriate federal agencies which are required by federal law to plan or regulate transportation facilities or programs are consulted regularly and are fully involved in the Authority Development Program where appropriate."

Section 2 - General Provisions

a - Before any rule or regulation of this Protection Plan is promulgated, the Authority shall seek comments from all agencies having any jurisdiction over matters affected by the proposed rule or regulation, to determine if there are duplications or incompatibilities between the proposal and the laws administered by the other agencies.

b - The correspondence of the Authority directed to the interested agencies and their response shall be maintained at the Authority's office for inspection by any interested person.

c - The Authority's General Counsel shall advise the Authority with respect to legal matters affecting its relations with other agencies. General Counsel will be responsible for ascertaining the jurisdiction, interests, and responsibilities of federal, State, and local agencies and advising the Authority with respect to the procedures to be used in the Authority's coordination and cooperation with such

agencies.

Section 3 - Federal Agencies

a - The Deep Water Port Act charges the Department of Transportation with the authority for the enforcement of that Act. The Department of Transportation is required to consult with the Secretary of the Army, the Secretary of State, the Secretary of Defense, and the Governors of adjacent coastal States, to determine their views on the adequacy of the application and its effect on programs within their respective jurisdictions. [Sections 4(c)(8) and 4(c)(9)].[2/]

b - The Secretary of Transportation is also charged with consulting with the Secretary of the Interior and the Administrator of the National Oceanic and Atmospheric Administration, in prescribing regulations relating to those activities involved in site evaluation and preconstruction testing. [Section 5(d)]. Additionally, the federal Act requires that regulations issued thereunder provide for full consultation and cooperation with all other interested federal agencies and departments and with any potentially-affected coastal State, and for consideration of the views of the interested members of the general public. (Section 5).

c - The federal Act requires that the Secretary of Transporta-

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2/ All citations are references to sections of the Deepwater Port Act.

tion consult with the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chief of Engineers of the United States Army Corps of Engineers, the Administrator of the National Oceanic and Atmospheric Administration, and the heads of any other federal departments or agencies having expertise or jurisdiction over any aspect of construction or operation of the deepwater ports. [Section 5(E)(1)].

d - The Secretary of Transportation is required to forward all applications to those federal agencies and departments with jurisdiction over any aspect of ownership, construction or operation for comment, review, or recommendation as to conditions. [Section 5(E)(2)].

e - The Secretary of Transportation is also required to consult with the Administrator of the Environmental Protection Agency, the Administrator of the National Oceanic and Atmospheric Administration and any other federal departments and agencies having jurisdiction over any aspect of the construction or operation of deepwater ports in establishing environmental review criteria. (Section 6).

f - The federal Act provides that the Secretary of Transportation shall consult with the Attorney General of the United States and the Federal Trade Commission concerning whether the issuance, transfer, or renewal of any license would adversely affect competition, restrain trade, promote monopolization, or otherwise create a situa-

tion in contravention of the antitrust laws. (Section 7).

g - Section 8 of the federal Act provides that deepwater port and storage facilities serviced directly by deepwater port shall be subject to regulation as a common carrier in accordance with the Interstate Commerce Act, and consultation shall be made with that agency.

h - The Secretary of Transportation shall also consult with the Secretary of the Interior, the Secretary of Commerce, the Secretary of State, and the Secretary of Defense in designating a zone of appropriate size around and including any deepwater port for the purposes of navigational safety. (Section 10).

i - Section 11 of the federal Act provides that the Secretary of State, after consultation with the Secretary of the Interior, may formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction, ownership, and operation of deepwater ports.

j - The Attorney General, in cooperation with the Secretary of Transportation, the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Council on Environmental Quality, and the Administrative Council for the United States, is directed to study methods and procedures for implement-

ing a uniform law providing liability for clean-up costs and damages from oil spills from outer-continental shelf operations, deepwater ports, vessels, and other related sources. [Section 18(n)(1)].

k - Section 21 of the federal Act provides that the Secretary of Transportation, in cooperation with the Secretary of the Interior, shall enforce and establish such standards and regulations as may be necessary to assure the safe construction and operation of oil pipelines.

l - The agencies and departments discussed above are those whose policies and activities would have most relevance to the environmental programs adopted by the Authority. However, coordination with other federal agencies which are concerned with environmental matters may also be necessary.

m - For further discussion of the various federal agencies with environmental duties, see the "Louisiana Superport Studies, Report No. 3, Recommendations for the Environmental Protection Plan," Louisiana State University Center for Wetland Resources, in which the following agencies are considered:

1 - Atomic Energy Commission;
2 - Bureau of Land Management (Department of the Interior);
3 - Bureau of Sport Fisheries and Wildlife (Department of the Interior);
4 - Council on Environmental Quality;
5 - Environmental Protection Agency;
6 - Federal Maritime Commission;
7 - Federal Power Commission;
8 - Foreign Trade Zones Board;

9 - Interstate Commerce Commission;
10 - Maritime Administration (Department of Commerce);
11 - National Bureau of Standards (Department of Commerce);
12 - National Oceanic and Atmospheric Administration (Department of Commerce);
13 - Office of Environmental Affairs (Department of State);
14 - Office of Pipeline Safety (Department of Transportation);
15 - U. S. Army Corps of Engineers (Department of Defense);
16 - U. S. Coast Guard (Department of Transportation);
17 - United States Geological Survey (Department of the Interior).

Section 4 - State Agencies

a - Louisiana Wild Life and Fisheries Commission. The Louisiana Wild Life and Fisheries Commission is charged with the protection, conservation, and replenishment of all wildlife resources in the State of Louisiana. It has the responsibility for establishing and operating game reserves and other wildlife sanctuaries, and has issued regulations concerning the permissible uses of lands in those areas. The Commission closely monitors all dredging and pipeline activities conducted in state-owned marshlands and water bottoms, and conducts various research and monitoring programs relating to the wildlife, vegetation, and soils of the State, primarily in the coastal region. Finally, the Commission, through its Water Pollution Control Division, and in cooperation with the Stream Control Commission, constantly monitors the levels of water pollution in the state of Louisiana, with particular emphasis on the Louisiana coastal region.

All phases of the Authority development program shall be

closely coordinated with the Louisiana Wild Life and Fisheries Commission. All research and monitoring programs conducted, or sponsored, by the Authority shall also be coordinated with the Commission.[3/]

b - Department of Conservation. The Department of Conservation is authorized to promulgate and enforce rules, regulations, and orders to conserve the mineral resources of the State and to prevent contamination of water resources of the State by mineral pollutants such as oil. Department rules are enforced by the Department's inspection and enforcement section. Permits are required prior to disposal of waste accumulated in oil storage tanks. The Department of Conservation also requires that reports be made to it on all spills of oil in the State.

The Authority shall consult with the Department of Conservation to insure that the design and construction of any onshore facilities under the Authority's jurisdiction meet the Department's permit criteria.

Reporting procedures applicable to oil spills from facilities under the Authority's jurisdiction shall be designed so as to complement the reporting requirements of the Department of Conservation.

3/ It is anticipated that the Authority and the Louisiana Wild Life and Fisheries Commission will enter into a memorandum of understanding or an inter-agency agreement, which sets forth the relationship between those agencies, with respect to the responsibilities established in its Protection Plan, including such matters as funding, monitoring and research responsibilities. This agreement may become an appendix to this provision of the Protection Plan.

c - Department of Health. The Department of Health has been given jurisdiction over all waste disposal programs in the State of Louisiana, except that concerning industrial waste.

The Authority shall consult with the Department of Health to insure that the facilities designed to handle and treat sanitary and liquid wastes, and to handle and dispose of solid wastes, meet the approval of the Department of Health.

d - Governor's Council on Environmental Quality. The Governor's Council on Environmental Quality serves as an environmental coordinating body for State agencies, and as a clearing house for environmental impact statements prepared or reviewed by State agencies pursuant to the National Environmental Policy Act.

All environmental impact statements prepared for facilities under the Authority's jurisdiction shall be referred to the Governor's Council on Environmental Quality for comment.

e - Stream Control Commission of Louisiana. The Louisiana Stream Control Commission, by legislative act has jurisdiction, including permit approval, over industrial effluent discharges into State water bodies. The Louisiana Stream Control Commission also has primary jurisdiction in the enforcement of federal-state water quality criteria. Rules and regulations governing discharges of industrial waste into waters of the State are issued and promulgated by the Stream Control

Commission and enforcement of such rules and regulations is vested in the Division of Water Pollution Control, Louisiana Wild Life and Fisheries Commission.

The Authority shall consult with the Stream Control Commission to insure that all effluents discharged into the waters of the State comply with the standards established by that agency and that the necessary discharge permits are obtained.

f - Air Control Commission of the State of Louisiana. The Louisiana Air Control Commission is the official State air control agency. The Air Control section of the Louisiana Department of Health provides support in the form of enforcement, surveillance, and inspection for any activities of the Air Control Commission.

The Authority shall consult with the Air Control Commission to insure that all emission of air pollutants in the State comply with the standards of that agency.

g - Office of State Planning. The Authority shall take affirmative steps to fully coordinate all aspects of the Authority development program with the Louisiana Office of State Planning which is charged with the development of land use planning program for the state.

h - The Authority is required to take affirmative steps to coordinate fully all aspects of the Authority development program with the Louisiana Advisory Commission on Coastal and Marine Resources or

its successor group, which is charged with the development of a coastal zone management plan for the State. [RS 34:3114 (B)]. The Authority recognizes the need for, and shall encourage the adoption of appropriate coastal zone management legislation within the State. Pending adoption of such legislation, the Authority shall consider the Report of the Advisory Committee (dated September 15, 1973) as an environmental objective of the State, warranting consideration in the Authority's regulation and coordination of the Authority development program.

i - Other State agencies may have to be contacted with respect to environmental matters within their jurisdiction. For further consideration of the various State agencies which may be involved, see the "Louisiana Superport Studies, Report Number 3, Recommendations for the Environmental Protection Plan," in which the duties of the following agencies are discussed:

1 - Air Control Commission of the State of Louisiana;
2 - Louisiana Coastal Commission;
3 - Department of Commerce and Industry;
4 - Department of Conservation;
5 - Department of Health;
6 - Department of Public Works;
7 - Louisiana Wild Life and Fisheries Commission;
8 - Environmental Protection Section (Office of the Attorney General);
9 - Governor's Council on Environmental Quality and Citizens Advisory Board;
10 - Louisiana Advisory Commission on Coastal and Marine Resources;
11 - Stream Control Commission of Louisiana;
12 - State Land Office;

13 - State Mineral Board;
14 - State Parks and Recreation Commission;
15 - Office of State Planning.

j - The following local agencies are also discussed in the Report of the Louisiana State University Center for Wetland Resources on the Protection Plan:

1 - Greater Lafourche Port Commission;
2 - Greater Jefferson Port Commission;
3 - Terrebone Port Commission;
4 - Greater Baton Rouge Port Commission;
5 - Lake Charles Harbor and Terminal District;
6 - Board of Commissioners of the Port of New Orleans;
7 - South Louisiana Port Commission;
8 - Levee Boards;
9 - Municipalities;
10 - Pipeline Companies;
11 - Planning Commissions;
12 - Police Juries;
13 - Public Service Commission;
14 - Regional Planning Commissions;
15 - Zoning Commissions.

k - The Authority shall consult regularly with the governing bodies of the parishes and municipalities affected by the Authority development program.

CHAPTER 8

CONSTRUCTION AND EFFECT

a - The Act shall govern all rules and regulations of this Protection Plan, and the Authority shall have all power conferred by that Act.

b - If any provision of this Protection Plan shall be found to be inconsistent with federal law, or with a provision of the Louisiana Constitution or a Louisiana statute, the conflicting provision of these rules and regulations is hereby declared to be inoperative solely to the extent of such conflict.

c - If any provision of this Protection Plan or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of the Protection Plan which can be given effect without the invalid provisions, items, or applications, and to that end the provisions of this Protection Plan are hereby declared severable.

d - These rules and regulations shall take effect upon their approval by the Board of Commissioners and filing with the Division of Administration, pursuant to the provisions of the General Rules and Regulations of the Offshore Terminal Authority and the Louisiana Administrative Procedure Act (La. RS 49:951 et seq.).

CHAPTER 35. OFFSHORE TERMINAL AUTHORITY [NEW]

Sec.
3101. Object; purpose of power.
3102. Definitions.
3103. Jurisdiction; domicile.
3104. Board of commissioners; qualifications; selection; terms; vacancies; compensation.
3105. Duties of board; officers; rules; meetings; quorum.
3106. Annual reports; revenues dedicated to authority; revenue surplus audit; central listing of employees and investment of idle funds.
3107. Executive director; selection; duties; employees; compensation.
3108. Acquisition of sites; lease of state owned land and water bottoms.
3109. Powers.
3110. Protection of deepwater ports.
3111. Public contracts.
3112. Bonds; procedure for issuance.
3113. Environmental protection plan.
3114. Issuance and transfer of licenses.
3115. Remedies and enforcement.
3116. Coordination and cooperation.

§ 3101. Object; purpose of chapter

A. It is the object and purpose of this chapter to provide for the creation of a political subdivision of the state of Louisiana, possessing full corporate powers, known as the Offshore Terminal Authority, hereinafter referred to as the "authority", to promote, plan, finance, develop, construct, control, license, regulate, supervise, operate, manage, maintain and/or modify offshore terminal facilities within the jurisdiction of said authority in order to promote the economic welfare of its citizens. It is hereby declared to be in the public interest that this offshore terminal authority be created as a political subdivision of the state of Louisiana.

B. It is further the object and purpose of this chapter:

(1) To promote the economic and industrial well being of the state of Louisiana and international trade for the state of Louisiana, its subdivisions and the area served by the Mississippi River and its tributaries;

2. To promote the industrial and petrochemical base of the Mississippi Valley region of the United States by providing adequate deep draft port facilities for the handling of the cargoes of deep draft vessels;

(3) To promote, in addition to port operations, scientific and all other uses directly related to the offshore terminal facilities which shall be in the public interest;

(4) To accommodate and plan for the technological innovations occurring in the worldwide and domestic shipping industry to increase efficiency and the flow of commerce through the offshore terminal facilities;

5. To protect environmental values and Louisiana's unique coastal marshland ecosystem through the adoption of an environmental protection plan;

(6) To assert and protect Louisiana's economic, social and environmental interests in the development of any offshore terminal facilities outside the state of Louisiana where such development may have an impact upon the state of Louisiana;

(7) To create a political subdivision of the state of Louisiana. The functions exercised by the board empowered herein shall be deemed to be governmental functions of the state of Louisiana;

(8) To assure that the authority shall not be required to pay any taxes or assessments on any property acquired or used by it under the provisions of this chapter or upon the income therefrom. Any bonds issued hereunder shall be serviced from the income of said facility and shall be exempt from taxation by the state of Louisiana, and by any municipal or political subdivision of the state.

Added by Acts 1972, No. 444, § 1. Amended by Acts 1974, No. 358, § 2.

Library references
Navigable Waters ⇐14(2).
C.J.S. Navigable Waters § 17.

§ 3102. Definitions

For the purposes of this chapter, the following definitions shall apply:

(1) "Offshore terminal facilities" means a structure, a series of structures, or facility of any type emplaced within the coastal waters of Louisiana or seaward thereof and designed to accommodate the cargoes or passengers of deep draft vessels whose draft is greater than the depths of typical inland harbors and waterways, commonly used by ocean going traffic during the first half of the twentieth century, including all pipelines, structures, and facilities directly related thereto and necessary or useful to the operation thereof whether landward or seaward of the main structure or facility itself.

(2) "Authority development program" means all the phases of growth and development through which the concept of offshore terminal facilities may go, including but not limited to promoting the concept, raising funds to support the program, planning uses of the facilities, selecting sites for the facilities, designing the structures, construction or regulating the construction of facilities, operating and maintaining or regulating the operation and maintenance of the facilities, expanding or renovating or regulating the expansion or renovation of the facilities, modification and retirement or regulating the modification and retirement of the facilities, and any other phases through which authority development may proceed.

(3) "Environmental protection plan" means a written document, prepared in conformity with this law, which shall be a regulation of the offshore terminal authority which establishes those steps to be followed to insure the protection of the environment throughout all phases of the authority development program and which shall be applicable to any offshore terminal facilities within the jurisdiction of the authority.

(4) "Three deepwater ports" means the board of commissioners of the Port of New Orleans, the Greater Baton Rouge Port Commission and the Lake Charles Harbor and Terminal District.

(5) "Three directors" means the director of the Louisiana Wildlife and Fisheries Commission, the director of the Louisiana State University Center for Wetland Resources and the executive director as created herein.

(6) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character, other than the authority.

(7) "Coastal waters of Louisiana" means those waters extending three nautical miles from the coastline, or beyond to the extent of the jurisdiction of the State of Louisiana.

Nothing contained herein shall be construed to affect Louisiana's claim to its tidelands or the location of Louisiana's coastline as interpreted by the State of Louisiana.

Added by Acts 1972, No. 444, § 1. Amended by Acts 1974, No. 358, § 3.

Library references
Navigable Waters ⚷14(2).
C.J.S. Navigable Waters § 17.

§ 3103. Jurisdiction; domicile

A. The authority shall have exclusive jurisdiction over the authority development program within the coastal waters of Louisiana, the areas of the state extending seaward thereof to the extent of the state's rights thereto, and over such other waters, water bottoms, wetlands and lands within the territorial boundaries of the state necessary to effectuate the purposes of this chapter. The jurisdiction of the authority shall not include or extend to the taking, control, regulation, licensing or operation of existing, proposed or future facilities of existing port authorities or port harbor and terminal districts except by mutual agreement.

B. The authority shall have the right to acquire by permit, lease, sublease, license, grant, purchase, or otherwise, water bottoms, wetlands, and lands, inside and outside of the territorial limits of the state of Louisiana,

for the construction, operation and maintenance of the facilities functionally required, related, necessary or useful to the authority development program.

C. The authority shall have exclusive power to own, operate, license or otherwise regulate all offshore terminal facilities within its jurisdiction.

D. The domicile of the authority shall be in the city of New Orleans.

Added by Acts 1972, No. 444, § 1. Amended by Acts 1974, No. 358, § 4.

Library references
Navigable Waters ⟹14(2).
C.J.S. Navigable Waters § 17.

§ 3104. Board of commissioners; qualifications; selection; terms; vacancies; compensation

A. The authority shall be governed by a board of commissioners consisting of nine members chosen on the basis of their demonstrated experience in civic leadership and their stature and ability to act effectively for the best interests of Louisiana.

B. All commissioners shall be appointed by the governor. Two shall be selected from a list of nominees submitted by Louisiana's three deepwater ports, with each deepwater port recommending two nominees.

Two shall be selected from each of the three Public Service Commission Districts in the state of Louisiana.

One of the members selected from the three Public Service Commission Districts shall be selected for his primary interest in protecting the unique coastal environment of Louisiana.

One member shall be selected from the state at large.

Once a final determination is made as to the location of the offshore terminal, the first vacancy occurring on the board from the Public Service Commission District in which, or offshore from which, the offshore terminal is to be located, shall be filled by appointment of a resident of a parish in which, or offshore from which, the offshore terminal is to be located. This appointment shall be from a list of three names to be submitted by the governing authority of the parish in which, or offshore from which, the offshore terminal is to be located. If the offshore terminal is located in, or offshore from, more than one parish, then the governing authority of each such parish shall submit to the governor a list of three names and from the lists so submitted the governor shall select said appointee.

C. Each of the nine commissioners shall serve a five year term, except the initial appointees.

A commissioner may not serve more then two consecutive five year terms on the board of commissioners.

The first nine appointments shall be for terms of one member for one year, two for two years, two for three years, two for four years, and two for five years. The governor shall exercise his discretion as to which nominees to appoint to the initial shortened terms. Thereafter, all commissioners appointed as herein provided shall serve five year terms.

D. All vacancies shall be filled for the unexpired term in the same manner as the appointment originally made, except as herein provided. A commissioner may be removed by the governor for just cause.

E. The members of the board of commissioners shall serve without compensation, but shall be reimbursed for travel expenses incurred in attending meetings, at rates and standards as promulgated by the American Automobile Association or a comparable recognized standard.

Added by Acts 1972, No. 444, § 1. Amended by Acts 1974, No. 358, § 5.

Library references
Navigable Waters ⟹14(2).
C.J.S. Navigable Waters § 17.

§ 3105. Duties of board; officers; rules; meetings; quorum

A. The board of commissioners shall be the governing body of the authority with full power to promulgate rules and regulations for the maintenance and operation of said authority.

B. The board of commissioners shall be a governing body of laymen. It shall formulate general policy. It shall decide upon all matter relating to the authority development program. It shall adopt an annual operating and capital budget.

C. The commissioners shall elect a president annually from among themselves.

D. The executive director, as chosen by the commissioners, shall be the secretary of the board.

E. The board of commissioners shall prescribe its own rules, which shall be adopted and promulgated in accordance with law.

F. The board of commissioners shall meet at least once every sixty days or upon the written request of three members, or upon the written request of the president.

G. All matters to be acted upon by the board of commissioners shall require the affirmative vote of at least five commissioners, with the exception that the affirmative vote of not less than six commissioners shall be required to select the executive director.

Added by Acts 1972, No. 444, § 1.

§ 3106. Annual reports; revenues dedicated to authority; revenue surplus audit; central listing of employees and investment of idle funds

A. The board of commissioners shall make an annual report to the governor showing all receipts and disbursements of the board; the number of arrivals and departures of vessels and their tonnage; the exports and imports passing through the authority; the general condition of the authority and its structures, facilities and other properties; and make such recommendations for its development; welfare and management as may seem advisable.

B. All revenues generated by the authority are hereby dedicated to the authority to be used to further the purpose of this chapter subject to the limitations stated herein.

Any revenues of the authority derived from any source whatsoever remaining at the end of each fiscal year, after the payment and satisfaction of all obligations of the authority under the terms of any resolution or resolutions authorizing the issuance of bonds hereunder, and after paying all expenses of operating and maintaining the authority, providing for renewal or replacement thereof, providing adequate reserves for continuous operation of the authority, providing for the acquisition or construction of improvements to such facilities and the purchase of equipment and furnishings therefor, shall be considered as surplus. Said surplus shall be turned over to the general fund of the State of Louisiana for the use and benefit of its citizens.

C. The fiscal affairs of the authority shall not be subject in any respect, to the authority, control or supervision of any regulating body of the state or any political subdivision thereof, but its books and record shall be subject to audit annually by the legislative auditor and its employees shall be listed on the central listing of state employees and it shall invest its idle funds in accordance with the Investment of Idle Funds Act and it shall be subject to the provisions of the Code of Ethics.

Added by Acts 1972, No. 444, § 1.

§ 3107. Executive director; selection; duties; employees; compensation

A. The board of commissioners shall select an executive director who shall exercise all control over all executive functions and the general operation of the authority. The executive director shall serve at the pleasure of the board. All employees of the authority shall be responsible to the executive director who shall organize the personnel employed by the authority in the most efficient manner to accomplish the purposes of the authority as provided in this chapter and by regulations established by the authority's board.

B. The executive director, in addition to his usual functions, shall be secretary to the board of commissioners. The board of commissioners shall fix the compensation of the executive director.

C. Within six months after operation of the port authority has commenced, the executive director, with the advice and consent of the board of commissioners of the port authority, shall submit a plan of classified civil service for all employees of the authority except the board of commissioners, the executive director, an assistant executive director, an executive secretary to the executive director, and professional employees hired on a contract basis. Added by Acts 1972, No. 444, § 1.

§ 3108. Acquisition of sites; lease of state owned lands and water bottoms

A. To enable the authority to perform the work herein provided, the state of Louisiana, acting by and through the register of state lands, is hereby authorized, empowered and directed to grant to the authority a lease on state owned lands and water bottoms which are selected by the authority as sites for offshore terminal facilities; provided, however, that the mineral rights on any and all state lands shall be reserved to the state of Louisiana.

Upon receipt of a request from the governing body of the authority describing the lands to be leased by the authority, it is hereby made the mandatory duty of the register of state lands to issue a certificate of title evidencing the lease of the land to the authority as described in the request.

B. The register of state lands shall lease the selected tracts to the authority for five dollars per acre per annum.

C. All such leases shall be for a term of forty years, but the legislature may reevaluate the rental payments upward or downward to reflect changing economic conditions.

D. All proceeds arising from the transfer of such leases of state owned lands and water bottoms shall be paid by the authority to the state treasurer and shall become part of the general fund of the state of Louisiana.

E. Nothing in this chapter is intended to authorize the authority to lease state owned lands and water bottoms for the exploration, development and production of oil, gas, sulphur or other minerals or for the cultivation or production of marine resources or detract from the authority of the State Mineral Board and/or Louisiana Wildlife and Fisheries Commission to lease for such purposes. However, tracts once leased to the authority may not be leased by the State Mineral Board or the Louisiana Wildlife and Fisheries Commission without the express consent of the authority, unless it can be shown by the state mineral board or the Louisiana Wildlife and Fisheries Commission, by clear and convincing evidence, that such lease or leases will not adversely affect present or future authority operations.
Added by Acts 1972, No. 444, § 1. Amended by Acts 1974, No. 358, § 6.

§ 3109. Powers

A. The authority shall be empowered to do any and all things necessary or proper to carry out the purposes of this chapter, including but not limited to the following:

(1) To make such investigations and conduct such investigatory and adjudicatory hearings, by itself or through its executive director, or any person appointed by the authority for that purpose, to develop such facts as may be necessary to assist in assuring compliance with the purposes of this chapter and the rules, regulations, and orders of the authority.

(2) To enter, at all reasonable times, in or upon any private or public property for the purpose of inspecting or investigating conditions in order to ascertain the state of compliance with this chapter and the rules, regulations, and orders of the authority.

(3) To inspect, at reasonable times, relevant records, files, papers, processes, controls, operations, and facilities for the purpose of ascertaining the state of compliance with this chapter and the rules, regulations, and orders of the authority.

(4) To take such actions, promulgate such rules and regulations, and issue such orders, as necessary or appropriate to carry out the provisions of this chapter.

(5) To institute in courts of competent jurisdiction legal proceedings to compel compliance with any order entered by the authority, or with this chapter or the authority's rules and regulations.

(6) To issue licenses, certificates, and permits for the construction of facilities or use of services or facilities subject to the authority's jurisdiction, pursuant to rules and regulations promulgated by the authority.

(7) To transfer, pursuant to rules and regulations promulgated by the authority, rights of the authority under any license, certificate, permit, or other authorization granted to the authority.

(8) To fix reasonable and just rates, fares, tolls or charges for the services and facilities within the authority's jurisdiction.

(9) To employ such engineers, accountants, attorneys, other professionals, employees and agents as may be necessary and advisable, and to fix their compensation on a contract or other appropriate basis.

B. To assert Louisiana's interest in any offshore terminal facilities development in proximity to the Louisiana coast, the authority is empowered to negotiate with and enter into contracts, compacts or other agreements with agencies, bureaus or other divisions of the federal government or other states of the United States concerning the authority development program, including jurisdictional aspects of the location of the offshore terminal facility, sharing of revenues derived from the operation of the offshore terminal facilities, and promulgation and enforcement of regulations governing authority operations.

C. The authority is granted all powers capable of being delegated by the legislature under Article XIV, Section 31 of the constitution of the state, including but not limited to authority:

(1) To own, construct, operate, maintain and lease docks, wharves, sheds, elevators, pipelines, pumping stations and facilities, storage facilities, housing and food facilities, heliport, locks, slips, laterals, basins, warehouses and all other property structures, equipment and facilities, including belt and connecting lines of railroads and works of public improvement necessary or useful for the authority development program.

2. To dredge and maintain shipways, channels, slips, basins and turning basins.

3. To establish, operate and maintain in cooperation with the federal government, the State of Louisiana and its various agencies, subdivisions and public bodies, navigable waterway systems.

4. To acquire by expropriation any real property in fee, leaving the ownership of any minerals or mineral rights in the former owners, and the prescription of nonuse shall not run against said minerals or mineral rights. In the event of expropriation, the compensation to be paid shall be the actual market value of the property at the time of taking. In the event of the acquisition of a servitude, or use of any stateowned waterbottoms on which there has been granted an oyster lease by the Louisiana Wildlife and Fisheries Commission, the private oyster lessee shall be reimbursed by the authority for the actual market value of said lease.

(5) To borrow from any person or corporation using or renting any land or dock or warehouse or any facility of the authority such sums as shall be necessary to improve the same according to plans and specifications approved by the authority, and to erect and construct such improvement, and agree that the loan therefor shall be liquidated by deducting from the rent, dock, wharf or toll charges payable for such property, a percentage thereof to be agreed on, subject, however, to any covenants or agreements made with the holders of revenue bonds issued under the authority set forth in R.S. 34:3112.

6. To collect tolls and fees.

7. To borrow funds for the business of the authority.

8. To select an official journal for the publication of the official acts of the authority.

9. To mortgage properties constructed or acquired by said authority and to mortgage and pledge any lease or leases and the rents, income and other

advantages arising out of any lease or leases granted, assigned or subleased by the authority.

D. The authority is hereby empowered to take all necessary steps to protect Louisiana's unique coastal environment from any short-term or long-term damage or harm which might occur from any aspect of the authority development program.

E. The authority may contract with any agency, public or private, to provide for public utilities on such terms as are agreed upon by the authority and the respective utilities for the financing, construction and extension of sewerage, water, drainage, electricity, gas and other necessary public utilities in and through said development.

F. Said authority may lease or sublease lands leased from the State of Louisiana and is authorized to negotiate and enter contracts or agreements with any public or private individual, or corporation, for the construction and operation of a petroleum terminal as an interstate common carrier.

G. The authority shall have exclusive and plenary power to issue licenses, certificates and permits, and otherwise regulate all phases of the construction and operation by any person of offshore terminal facilities within the jurisdiction of the authority. Nothing in this Chapter shall be construed to relieve, exempt or immunize any person, including the authority, from any environmental or safety requirement or regulation of a local governmental subdivision.

Added by Acts 1972, No. 444, § 1. Amended by Acts 1974, No. 358, §§ 2, 7, 8.

§ 3110. Protection of deepwater ports

A. To prevent impairment of the bonds of the three deepwater ports which are backed by the full faith and credit of the state, and to recognize the existing authority of and functions performed by the established ports and harbors of Louisiana, it is hereby recognized that the function, power and authority of the various existing port authorities established pursuant to Article 14, Section 31 of the Louisiana Constitution, and others established by specific constitutional provision are not to be diminished by the jurisdiction and powers exercised by the authority except as provided in this chapter.

B. The authority may enter into intergovernmental contract agreements with existing port authorities, individually, or with any other parish, city, municipality or subdivision of the state, and may engage jointly in the exercise of any power, the making of any improvements which each of the participating authorities may exercise or undertake individually under any provision of general or special law.

C. The authority, in establishing or enacting its rates and charges for bulk cargo shall consider the overall economic impact on the economy of the three deepwater ports, and its charges and rates shall be compensatory.

D. The authority shall not engage in the handling of break bulk or general cargo without the prior written agreement of the three deepwater ports, which agreement, among other provisions, may provide for use of existing port facilities, rates, wharfage fees and other matters of mutual interest.

Added by Acts 1972, No. 444, § 1. Amended by Acts 1974, No. 358, § 9.

§ 3111. Public contracts

A. All public works exceeding the sum of ten thousand dollars, including both labor and materials, to be performed by the authority shall be governed by R.S. 38:2211, et seq. However, this provision shall not apply in cases of extreme public emergency, where the authority has certified such public emergency, but in such case notice of such public emergency shall be published in the official journal of the authority within ten days thereof.

B. Where the authority deems it advisable and in the public interest to purchase machinery, equipment or vehicles of certain makes, kinds or types, the advertisement may specify the makes, kinds or types and, after the adver-

tising, the authority may purchase those makes, kinds or types, but they shall not pay more than the actual market price for the machinery, equipment or vehicles.

Added by Acts 1972, No. 444, § 1.

§ 3112. Bonds; procedure for issuance

A. The authority is hereby authorized to incur debt and issue bonds for its needs in the manner herein provided.

B. The authority is granted the power to incur debt and issue bonds by any of the means authorized by the constitution and laws of the State of Louisiana, including but without limiting the generality of the foregoing Article XIV, section 31, and Article XIV, section 1, and paragraphs (b.2) and (b.3) of the Louisiana Constitution.

C. Any revenue producing wharf, dock, warehouse, elevator, industrial facility or other structure owned by or to be acquired by the authority from proceeds of bonds issued by it is hereby declared to be a revenue producing public utility as that term is used and defined by the constitution and laws of the state in connection with the issuance of revenue bonds of political subdivisions of the state.

D. As an additional grant of authority beyond other provisions of the constitution, the authority is authorized, with the approval of the state bond and tax board, to issue negotiable bonds for any purpose within their delegated authority, and to pledge for the payment of the principal and interest of such negotiable bonds the income and revenues derived or to be derived from the properties and facilities maintained and operated by them or received by the authority from other sources.

E. Such negotiable bonds may be further secured by a conventional mortgage upon any or all of the property constructed or acquired, or to be constructed or acquired by them.

F. To further secure such negotiable bonds the authority may apply in whole or part any money received by gift, grant, donation or otherwise from the United States, the State of Louisiana, or any political subdivision thereof, unless otherwise provided by terms of the gift, devise, donation or similar grant.

G. Such bonds shall be authorized by a resolution of the board of commissioners of the authority and shall be of such series, bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates per annum, payable at such time or times, be in such denominations, be in such form, either coupon or full registered without coupons, carrying such registration and exchangeability privilege, be payable in such medium of payment and at such place or places, be subject to such terms of redemption not exceeding one hundred five percent of the principal amount thereof, and be entitled to such priority on the revenues of the authority as such resolution or resolutions may provide. The bonds shall be signed by such officers as the authority shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signatures of such officer or officers of the authority as it shall designate. Any such bonds may be issued and delivered, notwithstanding that one or more of the officers signing such bonds or the officers whose facsimile signature or signatures may be upon the coupons shall have ceased to be such officer or officers at the time such bonds shall actually have been delivered. Said bonds shall be sold for not less than par and accrued interest to the highest bidder at a public sale after advertisement by the authority at least seven days in advance of the date of sale, in newspapers or financial journals published at such places as the authority may determine, reserving to the authority the right to reject any and all bids and to readvertise for bids. If, after advertisement as hereinabove provided, no bids are received, or if such bids as are received are considered in the discretion of the board of commissioners of the authority to be unsatisfactory, then and in that event the board of commissioners may publicly negotiate for the sale of such bonds without further advertisement. No proceedings in respect to the issuance of

any such bonds shall be necessary except such as are contemplated by this section.

H. For a period of thirty days from the date of publication of the resolution authorizing the issuance of bonds hereunder, any persons in interest shall have the right to contest the legality of the resolution and the legality of the bond issue for any cause after which time no one shall have any cause or right of action to contest the legality of said resolution or of the bonds authorized thereby for any cause whatsoever. If no suit, action or proceeding is begun contesting the validity of the bond issue within the thirty days herein prescribed, the authority to issue the bonds and to provide for the payment thereof, and the legality thereof and all of the provisions of the resolution authorizing the issuance of the bonds shall be conclusively presumed, and no court shall have authority to inquire into such matters.

I. Such bonds shall have all the qualities of negotiable instruments under the law merchant and the Negotiable Instruments Law of the State of Louisiana, and shall be exempt from income and all other taxation of the State of Louisiana.

J. No bonds as herein described shall be authorized, issued or sold except in accordance with specific authorizations hereafter granted by the legislature for each issue.

Added by Acts 1972, No. 444, § 1.

§ 3113. Environmental protection plan

A. Throughout all aspects of the authority development program there shall be in existence an environmental protection plan, the details of which shall be followed in all respects by the executive director in carrying out any aspect of the authority development program. The environmental protection plan shall be applicable to all offshore terminal facilities within the jurisdiction of the authority.

B. The environmental protection plan shall be formulated by the three directors, as herein defined, with the advice and consent of the board of commissioners of the authority.

C. The environmental protection plan shall be promulgated by the executive director under the rule-making procedures of the Louisiana Administrative Procedure Act of R.S. 49:951–49:966.

D. The environmental protection plan shall be promulgated within a reasonable time after the appointment of the executive director, but in no event more than eighteen months after the effective date of this chapter. An acting executive director or a temporary executive director may fulfill this function if a permanent executive director is not as yet appointed.

E. The environmental protection plan may be amended at any time in accordance with the provisions of the Louisiana Administrative Procedure Act, to reflect changes in the authority development program. Initiation for changes may come from any of the three directors or any interested person.

F. In preparing the environmental protection plan, or any amendment thereto, at any time during the authority development program, the three directors shall make every effort to reach a consensus. If they are unable to agree, each shall proffer his proposed environmental protection plan and present it to the board of commissioners for its consideration. Each of the three directors shall present detailed comments to the board of commissioners, with recommendations as to the best environmental protection plan. After receiving and studying the recommendations, the board of commissioners shall decide which plan or combination of plans shall be adopted and promulgated.

G. The environmental protection plan shall be an integral part of the authority development program. Costs incurred to develop the initial plan, or any amendments to it, shall be considered an internal cost of the authority development program and shall be considered a cost to the same extent that economic, engineering or promotional programs are considered costs. The three directors shall agree on the appropriate level of funding for the developing of the authority environmental protection plan, prepare any amend-

ments thereto, and carry out the requirements of the plan. To the extent possible, federal funds shall be sought to assist in this effort.

H. The best talent available shall be sought to perform the studies and surveys necessary to develop an environmental protection plan and carry out its requirements in accordance with this chapter. To the extent possible, university-based, public and private researchers in Louisiana shall be utilized. In all cases, the research in support of the environmental protection plan shall be coordinated by agreement of the three directors. The results of all research done in support of the environmental protection plan shall be open to the public and available to any interested person.

I. The environmental protection plan shall contain specific provisions implementing Subsection J below. If specific provisions cannot be set forth due to uncertainties in the authority development program, then the environmental protection plan shall state in specific terms the uncertainties which do exist at the time the plan is promulgated, and why the uncertainties would make the inclusion of specific provisions in the plan premature. The authority environmental protection plan shall contain a separate chapter for each of the paragraphs of Subsection J below and any other chapters necessary to meet the requirements of this chapter.

J. The environmental protection plan shall:

(1) Summarize the salient feature of an inventory of all potential and actual stresses on the natural and human environment which can be reasonably expected to occur in pursuing the authority development program. Consideration shall be given to stresses which have occurred in other parts of the country and the world where similar functional operations were being performed. Consideration shall be given to the peculiarities of Louisiana's coastal environment. The inventory of potential and actual stresses shall include a prediction of the stress on the coastal environment of major accidents which could logically be expected to occur throughout the authority development program, even though all precautions against such accidents have been taken.

(2) Describe the essential features of existing environmental data upon which the selection of a site for a deep draft harbor and terminal may be based. Indicate how this data has been analyzed and compared with the inventory of potential and actual stresses required in the above paragraph so that the site selected will result in the least total stress on the environment. Indicate how economic considerations are compared with the assessed total stress on the environment to arrive at the best economic-ecologic formula for determination of a site for the deep draft harbor and terminal. State the location and availability of the environmental data upon which these determinations are based.

(3) State how the deep draft harbor and terminal facility design minimizes potential environmental damage, considers environmental factors as a positive part of the design, and controls long-term development so that growth and additions to the deep draft harbor and terminal do not result in random growth or in gradual environmental deterioration.

(4) Present details of how the operational aspects of the authority development program will be conducted so as to minimize environmental problems, including but not limited to a monitoring program by appropriate public or private persons selected by the board of commissioners; establishment of constructional and operational guidelines for environmental protection; strong enforcement provisions and mechanisms to insure cleanup of accidental spills by technical means, with evidence of financial responsibility to insure performance of the cleanup, and compliance with the enforcement provisions of the environmental protection plan. The plan shall consider the circumstances which may justify the temporary cessation of the port activities.

(5) Provide procedures for the funding of projects to be paid for by the authority to the Louisiana Wild Life and Fisheries Commission or any agency designated by the governor which shall compensate the coastal environ-

ment for loss that may be sustained through the stresses on the environment created by the authority development program.

(6) Analyze ongoing programs of the federal, state and local governments designed to protect the coastal environment, so as to insure that there is no unnecessary duplication of effort and to insure that cooperation and coordination of environmental protection measures are achieved. The opinion of all agencies with a responsibility for monitoring the coastal environment shall be sought with regard to this environmental protection plan prior to its promulgation, to determine if there are incompatibilities between specific provisions of this measure and the requirements of other rules and regulations.

K. Nothing in this section is intended to diminish in any way the authority of the Louisiana Wild Life and Fisheries Commission.

L. The legislature finds that the environmental protection plan as adopted by this authority on January 15, 1974, complies in all respects with the requirements of R.S. 34:3113, and was promulgated as required by law.

Added by Acts 1972, No. 444, § 1. Amended by Acts 1974, No. 358, §§ 10, 11.

§ 3114. Issuance and transfer of licenses

A. No person shall construct or operate, or cause to be constructed or operated, offshore terminal facilities within the jurisdiction of the authority without first obtaining a license, the transfer of any license granted to the authority, or other appropriate authorization from the authority.

B. A license shall be issued, any license granted to the authority shall be transferred, or other appropriate authorization granted, only if the authority finds that the applicant or transferee is qualified, and that the facilities or operations conform to the provisions of this Chapter and the rules and regulations of the authority and will be consistent with the public interest declared in this Chapter. Any license so issued or transferred or other appropriate authorization shall be subject to and contain such reasonable conditions as necessary to carry out the purposes of this Chapter.

C. The authority shall establish such other qualifications for applicants or transferees, which may include evidence of financial responsibility or performance bonds, as will insure an applicant's or transferee's ability to comply with this Chapter and the rules and regulations of the authority.

D. The authority shall establish the procedures for submission of applications for the issuance of licenses, the transfer of any license granted to the authority or the issuance of other appropriate authorization, and shall determine what information must be submitted by the applicant. The authority may impose reasonable filing fees and may require the applicant to reimburse the authority for all expenses incurred in processing the application.

E. The authority shall determine the length of time during which a license shall be valid, and the conditions upon which it may be revoked. The transfer by the authority of any of its rights under a license, certificate, permit or authorization granted to the authority shall be for the term specified in the original authorization to the authority. Licenses may be revoked, suspended, annulled or withdrawn in accordance with the procedures set forth in the Louisiana Administrative Procedure Act.

Added by Acts 1972, No. 444, § 1. Amended by Acts 1974, No. 358, § 12.

§ 3115. Remedies and enforcement

In addition to all other rights herein granted, the authority and the courts shall have the power to assure compliance with the purposes of this chapter as follows:

A. If the authority's board of commissioners or executive director has reasonable cause to believe that there exists a violation of this chapter or of the authority's rules and regulations, which could result in irreparable injury to the authority's operations, the environment or the public interest, the authority may petition the Civil District Court for the parish of Orleans, or

any other court of competent jurisdiction, for appropriate mandatory, injunctive or other relief pending final adjudication of such matters.

B. The authority may issue such orders as the public interest and equities of the case may require, and as may be necessary to effectuate the purposes of this chapter, including but not limited to: cease and desist orders; revocation of, or other appropriate action affecting, licenses issued by the authority; such affirmative action as may be appropriate; and the imposition of fines not exceeding ten thousand dollars per day.

C. Any individual found to be responsible for a violation of this chapter or the authority's rules and regulations, whether acting for himself or for others, may be fined not more than ten thousand dollars for each offense. Each day that a violation occurs constitutes a separate offense.

D. In the event that the authority shall determine that any order made by it, and not then the subject of judicial review, is being violated, the authority may institute a civil action in the Civil District Court for the parish of Orleans or any other court of competent jurisdiction, for enforcement of the authority's order. The enforcement proceeding shall be confined to the record before the authority. The court may enforce, remand, reverse or modify the order of the authority.

Added by Acts 1974, No. 358, § 13.

§ 3116. Coordination and cooperation

A. It is the policy of this chapter that the authority development program be pursued so that there is full coordination and cooperation between agencies and groups that have complementing or overlapping interests and the authority. It is not the policy of this chapter that the authority development program be pursued independently and with a view toward narrow, short-term interests.

B. The board of commissioners shall take affirmative steps to fully coordinate all aspects of the authority development program with the Louisiana Advisory Commission on Coastal and Marine Resources (Act No. 35 of 1971) or its successor group, which is charged with the development of a coastal zone management plan for the state.

C. The board of commissioners shall take affirmative steps to insure that the authority development program is coordinated into the planning programs of other modes of transportation, to include rail, road, waterway, air and pipeline, so that there is a long-term and orderly pursuit of transportation services in the coastal zone which are interrelated and coordinated so as to achieve the most efficient and economical transportation program that is feasible and that will be least destructive of other values in the state.

D. The board of commissioners shall insure that the appropriate federal agencies which are required by federal law to plan or regulate transportation facilities or programs are consulted regularly and are fully involved in the authority development program where appropriate.

Added by Acts 1974, No. 358, § 13.

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