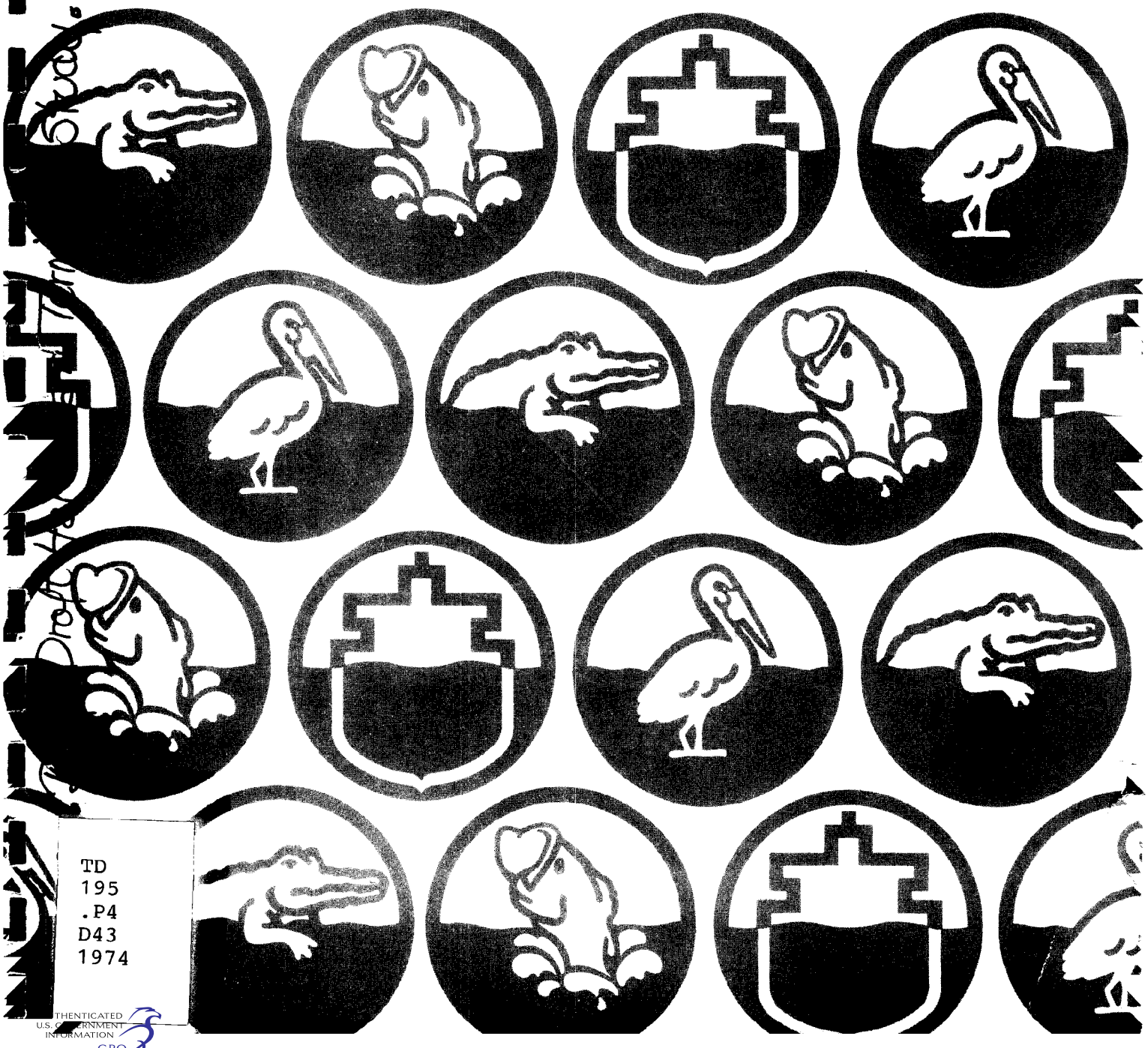
Coastal Zone
Information
Center

Superport Environmental Protection Plan

DEEP DRAFT HARBOR AND TERMINAL AUTHORITY



TD
195
.P4
D43
1974

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

01269

Property of CSC Library

STATE OF LOUISIANA
BOARD OF COMMISSIONERS
Deep Draft Harbor and Terminal Authority

January 15, 1974

1130 International Trade Mart
New Orleans, Louisiana 70130
Telephone (504) 527-5016

U.S. DEPARTMENT OF COMMERCE NOAA
COASTAL SERVICES CENTER
2234 SOUTH HOBSON AVENUE
CHARLESTON, SC 29405-2413

TO THE HONORABLE EDWIN W. EDWARDS,
GOVERNOR OF THE STATE OF LOUISIANA
AND
THE HONORABLE MEMBERS OF THE
LOUISIANA LEGISLATURE:

In response to the directive contained in La. R.S. 34:3101 et seq. (Act 444 of the Regular Session of 1972), I am pleased to submit herewith the Environmental Protection Plan governing the planning, development and operations related to a deepwater terminal (superport) in the State of Louisiana.

The Act creating this agency, referred to above, called for preparation of the Plan within 18 months from the effective date of the Act (July 26, 1972). In accordance with that requirement, the Plan has been developed and was delivered to the Secretary of State, State of Louisiana, for promulgation on January 15, 1974, after the Board of Commissioners of this Authority gave its "advice and consent" to promulgation as required in the Act. Final preparation of the Plan occurred after proper Public Hearing and due notice given under provisions of the Administrative Procedure Act of the State of Louisiana (La. R.S. 49:951-966). Publication of the Notice of Public Hearing appeared, as required by law, in the Official Journal of the State of Louisiana in both Baton Rouge and New Orleans. The effective date of the Plan is January 26, 1974.

The purpose of the Environmental Protection Plan is to assure maximum protection to the coastal wetlands of Louisiana during the period of superport planning, development and ultimate operation. The Plan is designed to provide maximum environmental protection, and at the same time, permit beneficial industrial and economic development in Louisiana.

This Plan places Louisiana in the unique position among the states of having used the most modern planning techniques for environmental protection during the development of a superport, itself a new concept in transportation. A certain measure of pride should rest with each of you for having initiated this new approach to development of projects in our State. Those of us associated with

TD195.P4 D43 1974
JUL 24 1997
#1977358

SUPERPORT

this agency appreciate the excellent cooperation which has been given in the organization of the Superport Authority and in the performance of its varied tasks.

Respectfully submitted,

P. J. MILLS
EXECUTIVE DIRECTOR

ENVIRONMENTAL PROTECTION

PLAN

OF THE

LOUISIANA DEEP DRAFT HARBOR AND

TERMINAL AUTHORITY

(LOUISIANA SUPERPORT AUTHORITY)

Drafted and adopted in accordance with provisions of Louisiana Revised Statutes 34:3101-3114. Filed with the Secretary of State, State of Louisiana, in accordance with the Louisiana Administrative Procedure Act (La. R.S. 49:951-966) for promulgation with effective date of January 26, 1974.

BOARD OF COMMISSIONERS

DEEP DRAFT HARBOR

AND TERMINAL AUTHORITY

(An Agency of the State of Louisiana, created by Act 444 of 1972 Regular Session, La. R.S. 34:3101-3114)

EDWIN W. EDWARDS
GOVERNOR

E. C. HUNT, JR.
PRESIDENT

NOLTY J. THERIOT
VICE PRESIDENT

Members

Clement Betpouey, III
Metairie

Richard A. Gonsoulin
Montegut

E. C. Hunt, Jr.
Lake Charles

Gerald J. McLindon
Baton Rouge

James W. Moore
Monroe

Dean L. Peterson
New Orleans

Thomas E. Powell
Eunice

Nolty J. Theriot
Golden Meadow

Gilbert H. Vorhoff
New Orleans

P. J. Mills
Executive Director

Randolph H. Parro
Associate Director

ACKNOWLEDGMENTS

The Authority acknowledges with appreciation the assistance of Dr. Lyle St. Amant, Assistant Director of the Louisiana Wild Life and Fisheries Commission, and Dr. Jack Van Lopik, Director of the Louisiana State University Center for Wetland Resources. Each of these gentlemen was given the responsibility in the Act creating the Superport Authority for formulation of the Environmental Protection Plan, along with the Director of the Authority. Their devotion to detail and unselfish giving of time to this project is gratefully acknowledged by the Board and staff of the Authority.

Environmental research upon which the Plan was based was developed by the Louisiana State University Center for Wetland Resources under the direction of a team headed by Dr. James Stone. Dr. Stone and his associates provided an excellent basis upon which the Plan could ultimately be developed.

Technical assessment of the contents of the Plan was made by the Henry J. Kaiser Company (Kaiser Engineers) through their offices in New Orleans with the assistance of personnel in their Oakland, California office. Roger E. Wallihan, Assistant Project Manager for Kaiser, coordinated the technical assessment. Richard M. Brennan of Kaiser served as Project Manager for the Louisiana Superport Authority.

Final drafting, rewrite and assimilation of the Plan into proper legal form as rules and regulations of the Authority was performed by the Authority's legal counsel, the firm of Deutsch, Kerrigan and Stiles of New Orleans.

RESOLUTION OF THE
BOARD OF COMMISSIONERS OF THE
DEEP DRAFT HARBOR AND TERMINAL AUTHORITY

WHEREAS:

1. Act 444 of the 1972 Regular Session of the Legislature (La. R.S. 34:3101 et seq.), which created the Deep Draft Harbor and Terminal Authority, provides in part that:

> "3113B. The Environmental Protection Plan shall be formulated by the three directors [Director of Louisiana Wild Life and Fisheries Commission, Director of Louisiana State University Center for Wetland Resources, and the Executive Director of this Authority] with the advice and consent of the Board of Commissioners of the Authority;
>
> "3113C. The Environmental Protection Plan shall be promulgated by the Executive Director under the rule-making procedures of the Louisiana Administrative Procedure Act of La. R.S. 49:951-49:966;
>
> "3113D. 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 Act"; and

2. On November 8, 1973, the three Directors forwarded to this Board for its advice and consent, a draft Environmental Protection Plan formulated by the three Directors; and

3. At the Board meeting on November 15, 1973, it was resolved by this Board, and its Executive Director, that a public hearing would be held on the draft Environmental Protection Plan on December 18, 1973; and

4. A public notice of the hearing on the Protection Plan was duly published in the Authority's Official Journal; and

5. The Board of Commissioners, and this Authority's Executive Director, held a public hearing on the draft Environmental Protection Plan on December 18, 1973, at which time both oral and written comments regarding the draft were submitted; and

6. The three Directors have reviewed the draft Environmental

Protection Plan and the oral and written comments submitted at the public hearing held on December 18, 1973, and on January 15, 1974, they presented to this Board, for its advice and consent, a revised draft of the Environmental Protection Plan, which has the approval of each of the three Directors.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Environmental Protection Plan submitted to this Board on January 15, 1974, is hereby ratified by, and with the advice and consent of, this Board;

2. The Executive Director of this Authority be and he is hereby authorized and directed to file with the Secretary of State, State of Louisiana, a copy of the Environmental Protection Plan, to be effective and applicable as rules and regulations of this Authority, promulgated pursuant to the Louisiana Administrative Procedure Act and this Authority's General Rules and Regulations; and

3. The Environmental Protection Plan duly promulgated by this Authority's Executive Director, and ratified by, and with the advice and consent of, this Board, shall be followed in carrying out all aspects of the Authority Development Program, as provided in La. R.S. 34:3101 et seq.

Adopted at a regular meeting of the Board of Commissioners of the Deep Draft Harbor and Terminal Authority held in the City of New Orleans, Louisiana, January 15, 1974.

STATE OF LOUISIANA
SECRETARY OF STATE

389-6181
P O Box 44125
Baton Rouge LA.
70804

WADE O MARTIN JR
SECRETARY OF STATE

January 15, 1974

Hon. P. J. Mills, Executive Director
Board of Commissioners
Deep Draft Harbor and Terminal Authority
1130 International Trade Mart
New Orleans, Louisiana 70130

Dear Mr. Mills:

This will acknowledge receipt of the Environmental Protection Plan of the Deep Draft Harbor and Terminal Authority delivered to this office this date. Said Rules and Regulations are being filed in the records of this office.

With kindest regards, I am

Sincerely,

Wade O. Martin, Jr.

Secretary of State

WOMjr/dp

ENVIRONMENTAL PROTECTION PLAN
OF THE DEEP DRAFT HARBOR AND
TERMINAL AUTHORITY
STATE OF LOUISIANA

	Page
CHAPTER 1 - INTRODUCTION	1-1
Section 1 - Scope and Purpose	1-1
Section 2 - Definitions	1-2
Section 3 - General Provisions	1-15
Section 4 - Requirements of Protection Plan	1-16
Section 5 - Location and Availability of Environmental Data	1-19
CHAPTER 2 - SUMMARY OF STRESSES	2-1
Section 1 - Statutory Authority	2-1
Section 2 - General Provisions	2-1
Subsection 1 - Introduction	2-1
Subsection 2 - References	2-2
Section 3 - Findings of the Authority	2-3
Subsection 1 - Potential Stresses	2-3
Subsection 2 - Actual Stresses	2-8
CHAPTER 3 - SITE SELECTION	3-1
Section 1 - Statutory Authority	3-1
Section 2 - General Provisions	3-2
Subsection 1 - Statement of Policy	3-2
Subsection 2 - Findings of the Authority	3-5

	Page
Section 3 - Essential Environmental Considerations	3-6
Subsection 1 - General	3-6
Subsection 2 - Deepwater Port Facilities	3-7
a - Water Depth	3-7
b - Navigational Fairways	3-7
c - Coordination with Existing Offshore Activity	3-8
d - Sea Bottom Characteristics	3-8
e - Marine Spawning Areas	3-8
f - Coordination with Existing Submarine Construction	3-8
g - Barrier Islands	3-9
h - Tidal Passes	3-10
i - Casualty Oil Spills	3-10
Subsection 3 - Onshore Facilities	3-11
Section 4 - Economic and Environmental Costs	3-11
Subsection 1 - General Provisions	3-11
Subsection 2 - Economic Costs	3-12
Subsection 3 - Environmental Costs	3-12
Subsection 4 - Economic and Environmental Benefits	3-14
Section 5 - Site Approval Procedures	3-14
CHAPTER 4 - CRITERIA FOR DESIGN	4-1
Section 1 - Statutory Authority	4-1
Section 2 - General Provisions	4-1
Subsection 1 - General Statement	4-1
Subsection 2 - General Description	4-2
Subsection 3 - Findings of Authority	4-4
Section 3 - Design Criteria	4-11

	Page
Subsection 1 - Introduction	4-11
Subsection 2 - General Criteria	4-12
Subsection 3 - Deepwater Port Facility	4-15
Subsection 4 - Vessel Traffic Control System	4-19
Subsection 5 - Pipelines	4-20
Subsection 6 - Receiving Terminal	4-21
Subsection 7 - Support Facilities	4-24
Section 4 - Positive Environmental Features	4-26
Section 5 - Control of Long-Term Development	4-28
CHAPTER 5 - OPERATION AND ENFORCEMENT PROCEDURES	5-1
Section 1 - Statutory Authority	5-1
Section 2 - General Provisions	5-1
Subsection 1 - Implementation of Protection Plan	5-1
Subsection 2 - Operational and Contingency Plans	5-5
Subsection 3 - Anti-Pollution Policy	5-8
Section 3 - Surety Bond Requirements	5-9
Section 4 - Construction Guidelines	5-14
Section 5 - Operational Guidelines	5-17
Subsection 1 - General Provisions	5-17
Subsection 2 - Operator Training and Performance	5-18
Subsection 3 - Navigation and Mooring	5-19
Subsection 4 - Transfer, Transportation and Storage of Oil and Hazardous Substances	5-20
Subsection 5 - Waste Disposal	5-21

	Page
Section 6 - Monitoring Programs	5-22
Section 7 - Approval of Projects and Activities	5-25
Section 8 - Inspection	5-32
Section 9 - Administrative and Judicial Procedures	5-35
Subsection 1 - Administrative Procedures	5-35
Subsection 2 - Judicial Procedures	5-37
Section 10 - Laws of Other Agencies	5-39
Section 11 - Liability for Environmental Damage	5-39
CHAPTER 6 - FUNDING OF ENVIRONMENTAL PROGRAMS	6-1
Section 1 - Statutory Authority	6-1
Section 2 - Environmental Compensation Charge	6-1
Section 3 - Louisiana Environmental Protection Fund	6-3
Section 4 - Environmental Compensation	6-7
Section 5 - Environmental Programs	6-8
CHAPTER 7 - COORDINATION AND COOPERATION	7-1
Section 1 - Statutory Authority	7-1
Section 2 - General Provisions	7-3
Section 3 - Federal Agencies	7-4
a - Department of the Interior	7-4
1 - Bureau of Land Management	7-4
2 - United States Geological Survey	7-5
3 - Bureau of Sport Fisheries and Wildlife	7-6
b - Department of Transportation	7-7
c - Department of Defense	7-11

	Page
d - Department of Commerce	7-12
1 - Maritime Administration	7-12
2 - National Oceanic and Atmospheric Administration (NOAA)	7-12
e - Council on Environmental Quality	7-14
f - Environmental Protection Agency	7-14
g - Federal Maritime Administration	7-16
h - Other Federal Agencies	7-17
Section 4 - State Agencies	7-18
a - Louisiana Wild Life and Fisheries Commission	7-18
b - Department of Conservation	7-19
c - Department of Health	7-20
d - Governor's Council on Environmental Quality	7-20
e - Stream Control Commission of Louisiana	7-21
f - Air Control Commission of the State of Louisiana	7-21
g - Office of State Planning	7-22
h - Louisiana Advisory Commission on Coastal and Marine Resources	7-22
i - Other State Agencies	7-22
j - Local Agencies	7-23
k - Consultation with Local Authorities	7-24
CHAPTER 8 - CONSTRUCTION AND EFFECT	8-1
APPENDIX A	

ENVIRONMENTAL PROTECTION PLAN OF THE DEEP DRAFT HARBOR AND TERMINAL AUTHORITY STATE OF LOUISIANA

CHAPTER I

INTRODUCTION

Section 1 - Scope and Purpose

a - Act 444 of the Louisiana Acts of 1972 (La. RS 34:3101-14)*/ (herein called the "Act") created the Deep Draft Harbor and Terminal Authority (herein called the "Authority") and provided that it should be vested with "exclusive and plenary authority to do any and all things necessary or proper" for the Authority "to promote, plan, finance, develop, construct, control, operate, manage, maintain and modify a deep draft harbor and terminal within the jurisdiction of said Authority." (RS 34:3109A and 3101A). The Act is attached as Appendix A.

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

c - Pursuant to Section 3113 of the Act, entitled "Environmental Protection Plan", and in accordance with the rule-making

---

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

procedures of the Louisiana Administrative Procedure Act (RS 49:951-66), and the General Rules and Regulations of the Deep Draft Harbor and 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).

d - This Protection Plan "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)].

Section 2 - Definitions

1 - "Act" means Act 444 of 1972 (RS 34:3101 et seq.), which establishes the Deep Draft Harbor and 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 facility.

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 Deep Draft Harbor and Terminal Authority as established by the Act.

9 - "Authority development program" means all the phases of growth and development through which the concept of a deepwater port and onshore facilities may go, including but not limited to promoting the concept, raising funds to support the program, planning the uses of the facility, selecting a site for the deepwater port and onshore facilities, designing the structures, constructing the facility and the support facilities, operating and maintaining the facility, expanding or renovating the facility, modification and retirement of the facility, 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 - "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.

16 - "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.

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

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

19 - "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.

20 - "Deepwater port facility" means a structure, a series of structures, or facility of any type emplaced off the coast of the State of Louisiana and designed to accommodate the cargo or passengers of deep draft vessels.

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

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

23 - "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

24 - "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.

25 - "Emulsifier" means an active surface agent which promotes

the formation and stabilization of an emulsion.

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

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

28 - "Environmental Protection Plan" (hereinafter "Protection Plan") means a written document prepared in conformity with the Act, which shall be a regulation of the Deep Draft Harbor and Terminal Authority, establishing those steps to be followed to insure the protection of the environment throughout all phases of the Authority development program.

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

30 - "Executive Director" means the Executive Director of the Authority chosen by the Board of Commissioners as provided for in the Act.

31 - "Facility" means either a deepwater port facility or an onshore facility.

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

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

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

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

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

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

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

39 - "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.

40 - "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, oil transfer and de-berthing operations.

41 - "Mudlump" means expressions 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.

42 - "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.

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

44 - "Oil" means oil of any kind in any form, including but not limited to, petroleum, fuel oil, petroleum products, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

45 - "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.

46 - "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.

47 - "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. The winds and tides generated by such a storm will vary from location to location.

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

49 - "Operational and contingency plan" means a written document, and any amendments thereto, prepared in accordance with the requirements of the Protection Plan.

50 - "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.

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

52 - "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.

53 - "Person in charge" means the person on the scene who has

operational responsibility for a deepwater port facility, onshore facility, or vessel associated with a deepwater port from which oil or other pollutants are discharged when the discharge occurs.

54 - "Person" means any individual, partnership, corporation, association, governmental agency, governmental subdivision, or public or private organization of any character.

55 - "Photosynthesis" means the formation of carbohydrates and oxygen in the chlorophyll-containing tissues of plants exposed to light.

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

57 - "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.

58 - "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.

59 - "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.

60 - "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 casualty oil spills).

61 - "Protection Plan". See Environmental Protection Plan.

62 - "Receiving terminal" means storage facilities and associated equipment for the receipt of bulk cargo.

63 - "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.

64 - "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.

65 - "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.

66 - "Saltwater intrusion" means the intrusion of water into other bodies of water causing a measurable change in salinity.

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

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

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

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

71 - "Spill prevention control and countermeasure plan" means a plan prepared pursuant to the proposed Environmental Protection Agency regulations published in the Federal Register of July 19, 1973 (38 FR 19334).

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

73 - "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.

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

75 - "Submarine slumping" means sea floor slides caused by the

instability of poorly consolidated deltaic sediments.

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

77 - "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.

78 - "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.

79 - "Transfer hose system" means the floating and submerged hoses and associated fittings and connections through which oil is transferred between a bulk cargo carrier and the manifold of the monobuoy system.

80 - "Transfer" includes both onloading and offloading between deepwater port facilities and vessels, deepwater port facilities and onshore facilities, and vessel to vessel.

81 - "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.

82 - "Turbidity" means a condition of darkened or reduced

clarity of water caused by the presence of suspended material.

83 - "Vessel" includes any description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water, whether self-propelled or otherwise, and includes barges and tugs.

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

85 - "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.

Section 3 - General Provisions

a - This Protection Plan applies to all aspects 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 aspect of the Authority development program. (RS 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 - 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 spe-

cific 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 peculiarties 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 to minimize environmental problems, including but not limited to a monitoring program by the Louisiana Wild Life and Fisheries Commission; establishment of constructional and operational guidelines for environmental protection; strong enforcement provisions, and mechanisms to insure cleanup of accident spills by technical means, with a surety bond to insure performance. 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 and 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 Coastal Protection Plan1/ 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 3113 I).2/

1/ This terminology is used in the Act. Elsewhere in the Act, the Protection Plan is referred to as the Environmental Protection Plan.

2/ RS 34:3113D provides that "[t]he 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 Act." This provision requires that the Protection Plan be promulgated prior to January 27, 1974. At the time this Protection Plan is being promulgated there exists no federal legislation regulating deep water port facilities, nor has either a detailed facility design or site been determined. Moreover, the Protection Plan is designed primarily to protect the

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 the Public Information Act and the General Rules and Regulations of the Authority.

b - To the fullest extent reasonably possible, all environmental data on which this Protection Plan is based, or on which the three Directors base a recommendation and 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, in accordance with the Authority's General Rules and Regulations.

2/ [cont'd.] 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 deep draft port facilities off the coast of Louisiana, but specialized facilities developed later may require more specific provisions. The initial Protection Plan has been promulgated in order to comply with the provisions of Section 3113D, but the Authority has found it necessary to invoke the provisions of Section 3113I and designate the specific provisions that cannot be set forth due to uncertainties in the Authority development program. Accordingly, the Authority recognizes, at the time of initial promulgation of the Protection Plan, that amendment of several provisions of the Protection Plan will be necessary in order to set forth specific provisions in accordance with Section 3113J(1)-(6).

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, caused by the Authority development program, based on existing environmental data, the observed operations of comparable installations elsewhere, and the peculiarities of the Louisiana coastal en-

vironment.

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 (Draft - October 31, 1973);

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

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

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

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

for Wetland Resources (November, 1972);

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

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

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

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

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

(m) "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 deepwater port 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 tanks 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 - 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 a deepwater port, 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 wet-

lands 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.

d - 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.

Subsection 2 - Actual Stresses.

The Authority has determined, based upon consideration of stresses which have occurred at deepwater port 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 a deepwater port and onshore 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 a deepwater port and onshore 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 the onshore 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 the onshore facilities may cause increased erosion wherever revegetation of disturbed areas is not complete.

b - Construction activities related to a deepwater port and onshore facilities include land clearing, excavation, dredging, pile driving, filling and back filling, and spoil 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 a deepwater port and onshore facilities will cause the following stresses:

(1) Operations of bulk cargo carriers, support vessels, and deepwater port and onshore 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 facility, and from certain onshore facilities. The design and operational procedures required by the Protection Plan and applicable law will minimize

such discharges, to the fullest extent possible. 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 "state the location and availability of the environmental data upon which these determinations are based."

1/ Several uncertainties exist in the Authority development program at the time of initial promulgation of this Protection Plan. Specifically, there exists no federal legislation regulating deepwater port facilities, nor has either a detailed facility design or site been determined. Moreover, the Protection Plan is designed primarily to protect the environment from stresses resulting from an oil transfer facility, although other types of cargo transfer facilities may be developed in the future. Final site selection will have to consider the design selected, and the precise uses for the facilities - information which is not presently available. Accordingly, in the initial promulgation of this Chapter, the Authority invokes the provisions of RS 34:3113I, with respect to these uncertainties.

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 a deepwater port facility and onshore facilities and that the sites selected will result in 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 Louisiana's coastal environment:[3/]

"The coastal zone of Louisiana is the most valuable yet the

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).

3/ "Louisiana Wetlands Prospectus," Louisiana Advisory Commission on Coastal and Marine Resources, pages V-3 & V-5 (September, 1973).

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.

* * *

". . . [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.

"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 a deepwater port and onshore facilities cannot be made according to a precise formula, and that in many instances the ecological impact of the placement of a deepwater port facility, connecting pipelines, or onshore facilities cannot be readily expressed in economic terms.

Subsection 2 - Findings of the Authority.

a - Installation of a deepwater port facility off of the Louisiana coast has substantial economic and ecological advantages over other methods of transporting oil to Louisiana refineries. A deepwater port facility 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 facility, and its necessary pipeline connections and related 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/]

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.

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 facility 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 - The Authority finds that proximity of a deepwater port facility and onshore facilities to onshore development corridors will reduce the amount of wetlands area used for pipelines and onshore facilities. The 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.

(1) A deepwater port facility and connecting offshore pipelines shall, to the fullest extent possible, be located in close proximity to onshore development corridors.

(2) All onshore facilities shall, to the fullest extent possible, be confined to development corridors. Additionally, onshore pipeline routings shall, to the fullest extent possible,

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

Subsection 2 - Deepwater Port Facilities.

a - Water Depth.

(1) 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.

(2) Any deepwater port facility 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.

(1) The use of designated navigational fairways for entrance to and exit from a deepwater port facility will minimize the possibility of collisions which may result in oil spills.

(2) A deepwater port facility 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.

c - A deepwater port facility shall be located in an area in

which existing offshore gas and oil platforms will not interfere with the safe operation of the deepwater port facility, and in which the deepwater port facility, or navigation to and from the deepwater port facility, will not interfere with the safe operation of existing offshore structures.

d - Sea Bottom Characteristics.

(1) 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 facility.

(2) A deepwater port facility and offshore pipelines shall be located in areas which have stable sea bottom characteristics.

e - Marine Spawning Areas.

(1) Installation of a deepwater port facility and connecting pipelines could disturb sea bottom biological activity in the immediate area involved. Disruption over a wide-spread area could cause alteration of marine spawning activities.

(2) To the fullest extent possible, a deepwater port facility and offshore pipelines shall not be located within, or transect, identified marine spawning areas.

f - If the offshore pipeline routing can avoid contact with ex-

isting submarine installations, the possibility of accidents is lessened. To the fullest extent possible, the offshore pipeline routing shall avoid crossings or other contacts with existing submarine installations.

g - Barrier Islands.

(1) Several stresses are created when a pipeline transects a barrier island, or when any significant construction is done on a barrier island. 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. If a pipeline canal on a barrier island is not properly filled, a new tidal pass can be created.

(2) 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. The location of a receiving terminal on a barrier island would be incompatible with the recreational uses and natural functions of such islands.

(3) The offshore pipeline routing shall not traverse any barrier island, and the onshore receiving terminal shall not be

located on a barrier island.

h - Tidal Passes.

(1) 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.

(2) 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.

i - Casualty Oil Spills.

(1) If a major oil spill from a vessel or from the deepwater port facility reached the shoreline and entered the estuarine system, extensive damage to aquatic life could occur.

(2) To the fullest extent practicable, a deepwater port facility and the navigational fairway or fairways shall 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.

b - Poor foundation conditions could cause tanks to buckle or rupture. The receiving terminal shall be located in an area in which a stable foundation can be developed, and in which adequate containment and flood protection levees can be constructed.

c - Wetlands.

(1) Draining and filling wetlands destroys benthic populations and bottom spawning organisms, and removes the area from biological productivity. 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.

(2) The receiving terminal shall be located in an area in which a minimum alteration of wetlands is necessary for construction.

(3) 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 proposal prepared by or submitted to the Authority in accordance with approval provisions of Chapter 5. 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 statement required by this Subsection shall be a complete projection of all costs associated with the construction and operation of the facility under consideration, except for those environmental costs required to be stated by the following Subsection, and shall include, but not be limited to, a projection of or estimate of third party damages and increased governmental services.

Subsection 3 - Environmental Costs.[6/]

To the greatest extent possible, a project proposal shall in-

---

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).

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).

clude a projection and valuation of all environmental costs associated with each 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 (which would include environmental compensation charges to be imposed by the Authority under any provision of this Protection Plan); and

d - A list of all identifiable environmental stresses reasonably expected to result 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/

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).

To the fullest extent possible, a project proposal 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.

Section 5 - Site Approval Procedures

a - The location of any facility within the jurisdiction of the Authority shall be evaluated by the three Directors and shall be approved by the Board of Commissioners, in the manner provided hereinafter.

b - Any project proposal submitted to the Authority pursuant to the provisions of Chapter 5 shall include specific site selection

data as required hereinafter. The sufficiency of such data shall be evaluated independently by the three Directors.

c - The person proposing a site 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 action 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 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/]

8/ See, e.g., discussion contained in "Louisiana Superport Studies, Report No. 3, Recommendations for the Environmental Protection Plan," Louisiana State University Center for Wetland Resources (Draft-October 31, 1973).

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 utilizied in the site selection process, and in making the other determinations required by this Section.

e - Notwithstanding the limitations stated in the preceding paragraph, the three Directors shall, to the fullest extent possible, evaluate the proposed site and, to the degree necessary for reasonable comparison, shall evaluate the alternate sites in order to determine:

(1) The extent to which the proposed site and the alternate sites satisfy the requirements of Section 3 of this Chapter;

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

(3) How economic considerations are compared with the assessed total stress for each of the sites, and whether the proposed site represents the best economic-ecologic accommodation.

f - The three Directors shall make written recommendations re-

garding approval or disapproval of any proposed site, which shall be based on full consideration of the foregoing regulations. The recommendations shall state the essential facts on which they are based.

g - 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.

h - 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.

i - 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.

j - 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.

k - The Board of Commissioners shall approve or disapprove a particular site for a proposed project, based on the report of the three Directors and all other relevant information. The Board's decision shall be made as soon as possible after receipt of the Directors' report, 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 developments 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 the time of the initial promulgation of this Protection

---

1/ Several uncertainties exist in the Authority development program at the time of initial promulgation of this Protection Plan. Specifically, there exists no federal legislation regulating deepwater port facilities, nor has a facility site been selected. Further, the facility design set forth in this Chapter relates to petroleum products only, although other types of cargo transfer facilities may be developed in the future. Accordingly, the Protection Plan is designed primarily to protect the environment from stresses resulting from an oil transfer facility. In the initial promulgation of this Chapter, the Authority invokes the provisions of RS 34:3113I, with respect to these uncertainties. Further, should it be decided in the future that a deepwater port facility should be designed to handle cargo other than petroleum products, the design criteria contained in this Chapter would have to be revised.

Plan, only a deepwater port with a capacity to handle oil is being considered, although possible development of a deepwater port facility for handling other types of bulk cargo has been anticipated. The rules and regulations of this Chapter are intended to provide the greatest environmental protection from all types of deepwater port and onshore facilities, although the initial 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 facility 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 - General Description.

a - The deepwater port facility required by this Chapter would

---

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 facility and onshore facilities would have lesser impact on the environment than that which is set forth herein.

consist of: navigational fairways; one or more monobuoy systems, anchored to the bottom and designed to permit a vessel transferring cargo at the monobuoy to rotate around the monobuoy a full 360 degrees in accordance with winds, currents, and tides; and a control, pumping, and crew platform complex to which the monobuoys are connected by pipelines.

b - The onshore facilities would include pipelines from the unloading facility to shore, a receiving terminal for temporary storage, and pipelines and pump stations for transporting the oil to a distribution system. Onshore facilities may also include facilities which provide support to the offshore facilities through the shipping of supplies, disposal of wastes, transfer of men, and servicing of support vessels and equipment.

c - It is contemplated that the monobuoy deepwater port facility would operate in the following manner: a vessel with oil to transfer will moor at a monobuoy and transfer its cargo into a flexible hose affixed either to the monobuoy or to its base. Each monobuoy will accommodate one vessel at a time. The initial transfer from the vessel to the hose system will be brought about by pumps located on the transferring vessel. Once into the system, however, pumps located on the platform complex will transport the oil from the monobuoy to the receiving terminal on shore, where it will be stored in tanks located in the terminal area. Thereafter, the oil will be

transported from the terminal area to a distribution system. This last transportation will be brought about by pumps located at the terminal, and at various stages along the inland pipeline.

Subsection 3 - 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 port facilities: dredged channels to existing port facilities, artificial island, floating and rigid platform, and monobuoy systems.

b - Of all deepwater port facilities 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 facility 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 Au-

thority finds that the positive and negative environmental aspects of the artificial island facility, as compared to the monobuoy facility, are:

(1) The 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 - The fixed pier or rigid platform facility would consist of a structure attached to the sea-bottom. The 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 rules and regulations in this Section describe generally those design criteria for any deepwater port facility, but particularly one for handling oil, and onshore facilities subject to the jurisdiction of the Authority, which will minimize potential environmental stress. The design of any such facility must be approved by the Authority and all appropriate State and federal agencies prior to its construction. In submitting a proposed design to the Authority, the procedures outlined in Section 7 of Chapter 5 of the Protection Plan must be followed. The Authority shall conduct an-

spections pursuant to Section 8 of Chapter 5 of the Protection Plan to assure adherence to the standards set forth herein, during the construction and operation of the deepwater port facility and onshore facilities.

Subsection 2 - General Criteria.

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

b - The design of all 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 facilities and related systems and equipment shall be designed to permit safe operation under the maximum 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 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 State and local health authorities. In no event shall solid waste be discharged from a facility under the Authority's jurisdiction into the environment, except as consistent with a permit issued by the appropriate federal agency under the Marine Protection Research and Sanctuaries Act of 1972.

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.

No sanitary waste shall 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, including those imposed by the Environmental Protection Agency and the Louisiana Stream Control Commission.

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 pumps shall include relief valves, 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 discharged 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 pipelines and hoses of the oil transfer system.

m - 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 fullest extent possible.

Subsection 3 - Deepwater Port Facility.

a - The deepwater port facility shall consist of monobuoys, navigational fairways for approaching and departing from the monobuoys, and one control and pumping platform complex connected to each monobuoy system by a pipeline.

b - A 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 the United States Army Corps of Engineers, the United States Coast Guard, or other appropriate federal agencies.

c - 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 secured 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.

(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 the United States Army Corps of Engineers, the United States Coast Guard, or other 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.

d - Control and Pumping Platform Complex.

(1) The platform complex shall be equipped with sufficient pumping capacity to enable it to handle simultaneous transfers between all 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 furnish safe moor-

ing facilities for all support vessels.

(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 drainage system for the containment of contaminants and contaminated runoff water, so as to prevent their discharge into the Gulf. They shall not be discharged into the Gulf unless first treated so as to satisfy the most stringent requirements applicable to such discharges, including those imposed by the Environmental Protection Agency, the U.S. Geological Survey, and the Louisiana Stream Control Commission. 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 order that all approaches to, and departures from, the monobuoy systems will be monitored, controlled and coordinated. The system shall include, but shall not be limited to, comprehensive radio communication and radar monitoring systems. The system shall be designed and located in accordance with the recommendations of the appropriate governmental agencies, including the United States Coast Guard.

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, encased in concrete, 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 sys-

tem of sufficient height and strength to protect it from flood waters and other effects associated with an 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 - A treatment facility or facilities shall be constructed either within, or in the vicinity of, the receiving terminal to permit treatment of all contaminated or polluted liquids generated by, or collected in, the terminal area, before any liquid is discharged into the environment or leaked into ground waters. All discharges from the terminal area must meet the most stringent requirements applicable to discharges into the waters and streams of the State of Louisiana, including those established by the Environmental Protection Agency, U. S. Geological Survey and the Louisiana Stream Control Commission.

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 tanks inside the terminal. The number of tanks included in each such enclosure shall not exceed four. Each enclosure shall be designed to prevent oil from penetrating the ground, 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.

(4) Impermeable enclosures shall be designed to insure that spilled materials, contaminated water and other liquids collected therein are transferred to the treatment facility prior to their discharge from the terminal area.

f - All oil storage tanks shall be designed with floating roof tank tops 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 stresses on 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) The Authority recognizes that vessels utilizing the deepwater port facility may have to be refueled and provisioned in the port facility area, and will require facilities for dispos-

ing of their garbage, solid waste, sanitary wastes, and bilge water.

(2) Any design for a deepwater port facility submitted to the Authority for approval shall include a full description of the proposed 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.

(3) The facilities 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 physically and economically 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) 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.

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 facility 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 configuration 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 an 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.

(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 facility 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 industry and urban development which is not in accordance 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 ves-

sels, owned, controlled or operated, either by owners or operators, 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 under 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 under the Authority's jurisdiction:

(a) Any design submitted to the Authority for approval

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 design, the person submitting the design 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 initial design 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. In no event, however, shall the Authority 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 unmodified wetlands or would otherwise violate the environmental objectives of the State of Louisiana. 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 the Louisiana Wild Life and Fisheries Commission; establishment of constructional and operational guidelines for environmental protection; strong enforcement provisions, and mechanisms to insure cleanup of accidental spills by technical means, with a surety bond to insure performance." The statute further states that the Protection Plan "shall consider the circumstances which may justify the temporary cessation of port activities."

Section 2 - General Provisions

Subsection 1 - Implementation of Protection Plan.

1/ At the time of the promulgation of the Protection Plan, no federal legislation has been adopted to authorize construction or regulate the operation of a deepwater port facility, and neither the site nor the details of the design for such a facility have been selected. Moreover, future development of facilities for handling bulk cargoes other than oil is uncertain. To the extent that these uncertainties affect the sufficiency and detail of the regulations set forth in this Chapter, the provisions of RS 34:3113I are invoked and more specific regulations will be provided by subsequent amendment to the 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.

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:

(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 other hazar-

dous 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 subject to 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 federal 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 Author-

ity 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 in this Protection Plan.

Subsection 2 - Operational and Contingency Plans.

a - Each owner or operator shall submit to the Authority an operational and contingency plan, which plan shall include the following information:

(1) Operating procedures, including a description of the operational organization and personnel responsibility;

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

(3) An activities checklist for safety and pollution preven-

tion procedures including emergency procedures to be followed in the event of fire, explosion, collision or other emergency situations;[2/]

(4) Inspection and maintenance procedures, including provisions for periodic testing of all safety and pollution prevention equipment;

(5) Procedures for monitoring of all liquid discharges and emissions of air contaminants when appropriate;

(6) Provision for keeping records of maintenance and inspection activities, including provision for submission of such records to the Authority;

(7) Procedures for reporting of all pollution incidents, including a spill prevention control and countermeasure plan and an oil and hazardous substance pollution contingency plan, or other similar plans, prepared in accordance with law. An operational and contingency plan shall further specifically provide for:

2/ See, e.g., "Port of Milford Haven Emergency Plan" (April, 1972).

(a) Submission to the Authority of a written report setting forth the quantity and cause of any pollution incident;

(b) Submission to the Authority of a report of cleanup activities and an evaluation of the effectiveness thereof;

(c) Submission to the Authority of a report of the environmental impact of any pollution incident with the provision for issuance of supplemental reports periodically thereafter until the Authority determines that substantial environmental recovery has been effected; and

(d) Submission to the Authority of proposed corrective measures to prevent recurrence of similar pollution incidents;

(8) Procedures for cessation of activities in the following circumstances:

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

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

(c) In the event of malfunction or overloading 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;

(9) Procedures for dismantlement and removal of abandoned or damaged facilities, equipment, and vessels which pose a risk to either safety or the environment.

b - No person shall conduct any activities subject to the Authority's jurisdiction unless an operational and contingency plan covering such activities has been approved by the three Directors and the Board of Commissioners.

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 clean-up of the discharge will be charged to the person responsible for the discharge.

Section 3 - Surety Bond Requirements

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

b - Each owner or operator shall establish and maintain with the Authority a surety bond, or comparable form of security acceptable to the Authority, as provided in these regulations, as security in an amount sufficient to cover all costs and expenses incurred by the Authority in the abatement and cleanup of oil or other pollutants and all costs of compensating Louisiana's environment for loss or damage thereto resulting from any violation of the Authority's rules and regulations or any condition of any approval of any operation or project, granted by the Authority. The security provided will be conditioned on the owner's or operator's compliance with the requirements of the Authority's rules and regulations and any conditions otherwise imposed by the Authority. The specific amount of the 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 Environmen-

tal Protection Fund, or under federal law or voluntary agreements.

c - Surety bonds, or comparable forms of security, provided by an owner or operator pursuant to federal law, shall be accepted by the Authority in lieu of the security required by this Section to the extent that such security satisfies the requirements of this Section. In no event shall security be required under this Section which duplicates requirements of federal law. The security provided under this Section shall be payable to the Authority and the Louisiana Environmental Protection Fund (as provided for in Chapter 6), in an amount sufficient to pay all costs as set forth in b, above.

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 applica-

tion 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 pur-

pose 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 indicated 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 un-

availability, 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 construction projects approved by the Board of Commissioners and conducted within the Authority's jurisdiction 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. All such projects shall be conducted in accord-

ance with applicable industry standards and those of local, State, and federal agencies.

b - The Authority's inspection of any construction project subject to the Authority's jurisdiction shall be coordinated with monitoring programs conducted by the Louisiana Wild Life and Fisheries Commission and other governmental agencies.

c - 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.

d - All work areas subject to the Authority's jurisdiction 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 projects subject to the Authority's jurisdiction shall contain specific reference to this requirement.

e - All liquid and solid waste from any construction subject to 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.

f - All equipment, facilities, and systems, subject to the Authority's jurisdiction, shall be certified as required by law and shall be tested as necessary to assure their proper operation.

g - Any person engaged in construction of a project subject to the Authority's jurisdiction shall use only such work areas, access roads, and access canals approved by the Authority for the work involved, and shall to the fullest extent possible:

(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 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 operations approved by the Board of Commissioners and conducted 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. 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.

b - Any owner or operator shall perform regular inspection and maintenance 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.

Subsection 3 - Navigation and Mooring.

a - Any owner or operator of any facility subject to 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, or any other 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 licensed pilots and/or mooring masters on vessels using deepwater port facilities; and

(6) Designation of safe anchorage areas for vessels using

deepwater port facilities.

c - In addition to any other requirements of this Protection Plan, any owner or operator shall include in any operational and contingency plan governing any activities subject to the authority's jurisdiction, the following information:

(1) Safety and check-off procedures;

(2) Mooring and departure procedures;

(3) Navigation procedures;

(4) Emergency procedures for vessels in distress;

(5) Cessation procedures;

(6) Procedures for notification of hazards and pollution incidents; and

(7) Pollution and oil spill contingency procedures.

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 - In addition to any other requirement of this Protection Plan, each owner or operator shall submit operational and contingency procedures for the handling and disposal of waste materials, whether treated or untreated, which shall include:

(1) Waste collection procedures;

(2) Disposal procedures and sites;

(3) Operating procedures for treatment of such waste;

(4) Reporting procedures for transfer of waste materials;

(5) Alternative procedures for waste disposal in the event of malfunction or overloading of treatment and disposal facilities;

(6) Inspection procedures to minimize equipment or personnel failures in waste disposal systems;

(7) Reporting procedures for pollution incidents;

(8) Cleanup procedures for pollution incidents; and

(9) Cessation procedures for operations in areas affected by malfunctioning or overloading of waste treatment or disposal facilities.

c - No owner or operator shall permit any outdoor burning of waste materials, including oil, except in extraordinary circumstances approved by the Executive Director.

Section 6 - Monitoring Programs

a - Subsection J(4) of RS 34:3113 requires "a monitoring program by Louisiana Wild Life and Fisheries Commission" 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 take all appropriate measures to enter into an agreement with the Louisiana Wild Life and Fisheries Commission regarding cooperation and coordination of the development and implementation of monitoring programs undertaken by the Louisiana Wild Life and Fisheries Commission pursuant to RS 34:3113 J(4).

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

d - Unless the following monitoring programs are undertaken by the Louisiana Wild Life and Fisheries Commission, 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.

e - The Authority shall take all necessary steps to insure that monitoring stations are established for all significant facilities and activities subject to 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 facilities and activities subject to the Authority's jurisdiction, which directly or indirectly affect the environment, must be approved by the Authority before construction or operation commences.

b - The Authority may impose, in any approval granted by it under this Protection Plan, all conditions which it deems neces-

sary to protect Louisiana's environment.

c - Every approval granted by the Authority shall include a reference to the liability provisions of Section 11 of this Chapter 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 approval granted pursuant to this Protection Plan may be denied, revoked, suspended, or modified by the Authority, upon thirty (30) days written notice, for the following reasons:

(1) The willful making of a false statement or willful misrepresentation of a material fact in connection with securing or maintaining such approval;

(2) The failure of an owner or operator to qualify as financially responsible in accordance with the requirements established by the Authority;

(3) Failure to comply with, or respond to, lawful inquiries, rules, regulations, or orders of the Authority or the conditions of any approval granted by the Authority;

(4) A material change regarding an owner or operator or the subject matter approved by the Authority; and

(5) Gross negligence, incompetence, or misconduct by a person covered by the approval with regard to any matters subject to such approval.

e - Any person proposing a project for approval shall first submit to the Authority a summary project proposal which 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; and

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

f - The Authority may approve or deny (or approve condition-

ally), in whole or in part, any summary project proposal.

g - After a summary project proposal, or any part thereof, has been approved (or approved conditionally) by the Authority, a detailed project proposal covering the approved proposal shall be submitted to the Authority and shall contain the following information:

(1) 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;

(2) 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;

(3) 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;

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

(5) A detailed description of the economic aspects of the

proposed project including a statement of project costs and financial arrangements; and

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

h - The Authority may require submission of such additional information or supporting data as it deems necessary for a full and complete consideration of any summary or detailed project proposal.

i - The Authority shall receive from any person proposing a project hereunder a copy of any environmental impact statement 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 impact statement contains information sufficient for compliance herewith.

j - 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 project proposal submitted for consideration by the Authority.

k - The Authority may approve or deny (or approve conditionally) in whole or in part, any detailed project proposal.

l - The Authority shall not approve any project or any part of any proposed project unless the Authority has approved (i) a summary project proposal, (ii) a detailed project proposal, and (iii) an operational and contingency plan, covering the proposed project.

m - The Authority shall not grant approval for construction or operation of any proposed project 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.

n - Before approval of construction 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 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.

o - All information relating to proposed construction pro-

jects filed with the Authority, shall be available for public inspection, at the Authority's office for at least thirty days prior to granting of any approval authorizing construction.

p - Each owner or operator shall establish and maintain such records, make such reports and provide such information as the Authority 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.

q - The Authority's approval of any contract for the construction and operation of oil terminal as an interstate common carrier shall be conditioned upon such contract containing 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 and inspect any vessel, or deepwater port facility, or any property subject to the Authority's jurisdiction, for the purpose of ascertaining the state of compliance with this Protection Plan and other rules and regulations of the Authority.

b - Such representative of the Authority may inspect, at reasonable times, processes, controls, facilities, and the operation thereof including the operating log and other records necessary to conduct the inspection.

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 warrant-

ed 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 possible; (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 vessel, facility, or other property subject to 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 violations of this Protection Plan, the Authority's General Rules and Regulations, or any condition of an approval granted by the Authority pursuant to this Protection Plan are threatened, or whenever such violations are occurring or have 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 Authority, the Authority shall promptly take appropriate action to as sure 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 imposition of fines.

h - If the Authority has reason to believe a violation of any applicable rule or regulation, or condition of approval, 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 an approval granted by the Authority pursuant to this Protection Plan 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 action in a court of competent jurisdiction to establish liability, and to recover damages, for any injury to the air, waters, or property, including animal, plant, and aquatic life of the State, subject to the Authority's jurisdiction, caused by any violation 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, approval, 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 subject to 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.

Section 11 - Liability For Environmental Damage

a - Any person who violates any provision of the Authority's rules and regulations, or who violates any condition of the approval of a project or operation granted by the Authority, and thereby causes loss or damage to the Louisiana environment, shall be liable to the Authority, for the use of the Louisiana Environmental Protection Fund, for (i) the actual cost expended by the Authority in the abatement of any pollution related to the discharge of oil or hazardous substances or other pollutants prohibited by the Protection Plan, and (ii) all costs incurred by the Authority, in compensating Louisiana's environment. In no event, however, shall liability be imposed under this Section without a showing of negligence or fault.

b - Each owner or operator shall be liable for all acts and omissions of its servants and agents with respect to any of its activities conducted within the Authority's jurisdiction.

c - Whenever two or more persons violate any provision of this Protection Plan, any other rule or regulation of the Authority, or any condition of an approval granted by the Authority, so that any damage to the environment resulting therefrom is indivisible, each violator shall be jointly and severally liable for the damages under this Section.

d - The liability provisions of this Section are applicable only to claims by the Authority for damages caused by stresses created by the Authority development program, and shall not apply to private claims by any person, allegedly resulting directly or indirectly from any aspect of the Authority development program. Such persons may pursue such remedies as provided by law.

CHAPTER 6

FUNDING OF ENVIRONMENTAL PROGRAMS

Section 1 - Statutory Authority

a - Subsection J(5) of RS 34:3113 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."

b - 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).

Section 2 - Environmental Compensation Charge

a - Reasonable environmental compensation charges shall be imposed on all persons and activities subject to the Authority's jurisdiction, to provide compensation for losses that may be sustained through the stresses to the environment created by the Authority development program. Such charges shall be paid into the Louisiana

Environmental Protection Fund as established herein.

b - After the design and site of any facility subject to the Authority's jurisdiction have been determined, but before the commencement of construction of any such facility, the Authority shall require the owner or operator of the facility to pay initial environmental compensation charges, and thereafter such additional charges as the Authority may deem necessary. Initial environmental compensation charges may be due: (1) at the time of approval of a summary project proposal; and (2) at the time of approval of a detailed project proposal. The amount of any such environmental compensation charges shall be determined by the Authority, based on a thorough consideration of all environmental stresses reasonably expected to occur as the result of activities conducted in connection with the construction of any such facility.

c - Before commencement of operation of any facility subject to the Authority's jurisdiction, the Authority shall require the owner or operator of the facility to pay such environmental compensation charges as the Authority may deem necessary. The amount of any such environmental compensation charges shall be determined by the Authority, based on a thorough consideration of all environmental stress es which could reasonably result from the operation of such facility.

d - The amount of any environmental compensation charges hereunder shall be established by amendment to this provision.

e - Payment of environmental charges shall cease when the Fund reaches the amount established as provided in Section 3, below.

f - The amount required by the Fund shall be reviewed on an annual basis, or on such shorter basis as may be warranted.

Section 3 - Louisiana Environmental Protection Fund

a - The Louisiana Environmental Protection Fund (hereinafter "the Fund") is established as a nonlapsing, revolving fund, to be used by the Authority to assure compliance with all provisions of the Protection Plan.

b - The amount of any accounts hereunder shall be established by amendment to this provision.

c - The Fund shall consist of two accounts to which shall be credited such amounts as shall be allocated to each of them by the Board of Commissioners. Each account shall be limited to the amount required to implement the purposes for which the account is established. The amount of each account shall be determined by the Authority, based on a thorough consideration of all expenditures which could reasonably be anticipated in the implementation of each account.

(1) One account shall be designated as the "Pollution Abatement Account" to cover the abatement and cleanup of pollution

related to the discharge of oil or hazardous substances and other pollutants prohibited by the Protection Plan and resulting from any activities conducted as part of the Authority development program.

(2) At the time of initial promulgation of this Protection Plan, legislation is pending in Congress which may cover cleanup and related environmental costs. The extent to which federal legislation, when enacted, may cover such environmental costs is uncertain. Moreover, other cleanup provisions of federal law, as well as voluntary agreements such as TOVALOP (Tankers Owners Voluntary Agreement Concerning Liability for Oil Pollution) and CRISTAL (Contract Regarding an Interim Supplement to Tanker Liability for Oil Pollution) cover pollution abatement costs under certain circumstances. After enactment of federal legislation, the protection afforded by all existing contingency programs will be considered. Should the Authority determine that it is necessary, specific provisions may be provided in the Pollution Abatement account, by subsequent amendment to the Protection Plan, after the nature and extent of the coverage provided by other contingency programs can be determined. The Authority hereby invokes the provisions of RS 34:3113I with respect to the uncertainties which exist at this time.

(3) One account shall be designated as the "Compensatory Program Account" and monies in the account shall be allocated and

shall be disbursed by the Board of Commissioners for the following purposes, when necessary and related to the Authority development program:

(a) Administrative and personnel expenses and equipment costs of the Authority related to the administration and enforcement of this Protection Plan and the Fund;

(b) Funding of projects by the Louisiana Wild Life and Fisheries Commission or any other agency designated by the Governor to compensate the environment for loss that may be sustained through stresses on the environment created by the Authority development program;

(c) All costs required for funding of projects which may be undertaken by the Authority as provided in Section 5 of this Chapter;

(d) Funding of a monitoring program by the Louisiana Wild Life and Fisheries Commission conducted pursuant to RS 34:3113J(4); and

(e) Any other environmentally related costs that the Authority determines are proper charges against the Fund, including charges for preventive or corrective action when necessary.

d - There shall be credited to the Fund:

(1) All environmental compensation charges imposed by the Authority under Section 2 of this Chapter;

(2) All monies representing payments of fines and/or civil penalties imposed under the Protection Plan; provided, however, that the limitation in the amount of the Fund shall in no way affect the imposition of a fine, nor shall the imposition of a fine against a particular owner or operator affect that person's

liability for the payment of environmental charges;

(3) All monies recovered by the Authority as a result of legal action or a demand for payment, or in compromise or settlement of a claim by the Authority under this Protection Plan;

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

(5) All other revenues, from whatever source derived, which may be designated by the Board of Commissioners for credit to the Fund.

e - All monies credited to the Fund, and not needed currently to meet the obligations imposed under this Protection Plan, shall be handled as provided by law and in accordance with prudent financial principles. Interest received on such investments shall be credited to the Fund.

f - The Authority shall recover for the use of the Fund, through all appropriate means, all sums expended by the Fund, whenever recovery is possible from the person responsible, or from his surety or insurer, or whenever monies are available under any State or federal program.

g - This Fund is for the purpose of compensating the environment for stresses created by the Authority development program.

Private damages claimed by any person, allegedly resulting directly or indirectly from any aspect of the Authority development program, shall not be recoverable against the Fund. Such person may pursue such remedies as provided by law.

Section 4 - Environmental Compensation

a - If an investigation by the Authority reveals that any vessel, facility or operation subject to the Authority's jurisdiction is either directly or indirectly responsible for stresses, the owner or operator of such vessel, facility or operation shall take such corrective action and provide such environment compensation as provided for in this Protection Plan. If an owner or operator fails to take appropriate action, the Authority, either directly or in coordination or cooperation with the Louisiana Wild Life and Fisheries Commission or any other appropriate agency, may take appropriate measures to compensate the environment for stresses resulting from the Authority development program and charge the costs for such compensation to the owner or operator responsible.

b - Whenever an investigation of stresses indicates the compensation for such stresses may be necessary, the Authority, either directly or in coordination and cooperation with the Louisiana Wild Life and Fisheries Commission or any other appropriate agency, shall determine the nature and extent of any such environmental compensation.

c - The environmental compensation provided for in the preceding paragraph may consist of any one, or a combination of, the following:

(1) Direct compensation in the form of rehabilitation and restoration of damaged areas of the environment;

(2) Acquisition, improvement, or enhancement of related areas of the environment to offset and compensate for loss of land or water for recreational uses or production of marine resources, when direct compensation is not possible; or

(3) Research projects reasonably related to providing data to assist in compensation of affected areas of the environment.

d - If an investigation of a stress fails to disclose the cause of such stress, the Authority shall implement such measures as it may deem appropriate.

Section 5 - Environmental Programs

a - Unless the following programs are undertaken by the Louisiana Wild Life and Fisheries Commission or by any other agency designated by the Governor, the Authority shall establish and maintain such environmental programs as the Board of Commissioners may deem warranted, either on its own initiative or upon the recommendation of the three Directors, which 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 programs under this Section, and for them to recommend such

additional programs as they feel are necessary to evaluate actual or potential stress caused by the Authority development program and assure that Louisiana's environment is protected.

c - Before approval of any environmental program by the Board of Commissioners, the three Directors shall actively solicit the advice, technical assistance, and recommendations of recognized environmental organizations and environmental specialists regarding the proposed program.

d - All information regarding any proposed program shall be placed in the Authority's office and be available to the public for inspection for at least thirty days prior to approval of the program by the Board of Commissioners, and, to the extent possible, such information shall be mailed to all persons who have made timely requests of the Authority for advance notice of its consideration of environmental programs.

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 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 Coastal Protection Plan prior to its promulgation, to determine if there are incompatibilities between specific provisions of this measure and requirements of other rules and regulations."

b - RS 34:3114A states that "[i]t is the policy of this Act

1/ At the time of initial promulgation of this Protection Plan, several proposed bills are pending in the United States Congress, which, if enacted, will regulate deep water port facilities. Such legislation would set forth the federal agency, or agencies, with primary responsibility for the licensing and regulation of such facilities. In view of the uncertainty as to the content of the federal legislation which may be enacted, complete provisions with respect to cooperation and coordination with appropriate federal agencies cannot be set forth at this time. Accordingly, in the initial promulgation of this Chapter, the Authority invokes the provision of RS 34:3113I with respect to these uncertainties.

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 34:3114B 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 34:3114C 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 34:3114D 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 - Department of the Interior. The Department of the Interior administers public lands of the United States, including the seabed and subsoil of the outer continental shelf. Several sections within the Department of Interior are concerned with environmental matters.

(1) Bureau of Land Management. The Bureau of Land Management (BLM) conducts federal lease sales for outer continental shelf lands for mineral exploration and exploitation, and also handles the leasing of those lands for other purposes, including pipeline rights-of-way. Environmental impact statements must be prepared before any lease of, or right-of-way over, outer continental shelf lands is granted. Such environmental impact statements must be prepared in accordance with approved BLM format.

Pursuant to its right-of-way leasing function, BLM has promulgated certain standards applicable to the design and construction of pipelines installed over rights-of-way obtained from it. These standards include requirements for burial, encasing in concrete, and hurricane protection.

In addition, under present law, BLM is responsible for leasing of public lands on the outer continental shelf for pur-

poses of mineral exploration and exploitation, and it may become interested in leasing lands for any site selected for the deepwater port facility and associated pipelines.

BLM shall be consulted to insure that standards for the design and construction of pipelines and other offshore structures set forth in this Protection Plan are compatible with those imposed by BLM. Further, the selection of offshore sites for facilities to be constructed under the Authority development program shall be closely coordinated with that agency.

Although BLM maintains an environmental protection division which monitors oil spills, BLM does not require notice or report of such spills, and has promulgated no standards relating specifically to the environment.

(2) United States Geological Survey. The United States Geological Survey (USGS) has been given supervision over all operations conducted on leases on the lands of the outer continental shelf, and, as such, has the primary responsibility for preventing pollution of the Gulf of Mexico beyond three miles from the Louisiana coast. In addition, the USGS supervisor must approve the location (within a certain lease), size, and design of any offshore platform prior to its construction, and also must approve both the methods for disposal

of certain liquids, including waste water, and the location of disposal points.

The USGS supervisor may suspend any operation which threatens immediate, serious, or irreparable harm to the environment. However, with the exception of OCS Order Number 8, dated October 30, 1970, USGS has not promulgated any standards governing pollution control or waste disposal. Instead, USGS regulations generally refer to applicable standards of the Environmental Protection Agency and other agencies.

Finally, USGS conducts research and monitoring programs which relate to the offshore and coastal environment.

The advice and assistance of USGS shall be sought with reference to all phases of the Authority development program, particularly those related to the design and placement of the deepwater port facility and the methods for disposal of liquid wastes, including waste water generated by its operation. Research and monitoring programs conducted, or sponsored, by the Authority shall be coordinated with USGS.

(3) Bureau of Sport Fisheries and Wildlife. This agency is charged with developing programs to preserve and develop the wildlife resources (including aquatic life) of the nation. Although this agency has been given no enforcement or permit

authority, the Fish and Wildlife Coordination Act (16 USC 661, et seq.) requires all agencies engaging in projects affecting navigable waters to consult with this agency "with a view to the conservation of wildlife resources." Pursuant to this provision, the Bureau reviews, and makes recommendations with respect to, certain projects subject to the jurisdiction of the Corps of Engineers. This agency also conducts several research programs relating to the environment.

The Bureau of Sport Fisheries and Wildlife shall be consulted with respect to all phases of the Authority development program. Further, all research and monitoring programs conducted, or sponsored, by the Authority shall be coordinated with this agency.

b - Department of Transportation. The United States Coast Guard, under the Department of Transportation, is responsible for the administration and enforcement of applicable federal legislation on the navigable waters of the United States. This responsibility includes promulgation and enforcement of regulations promoting safety and other matters not specifically delegated to other agencies.

The Coast Guard maintains a "strike force team" for oil and hazardous substance cleanup, in compliance with national and

regional contingency planning. Further, the Coast Guard is authorized to coordinate the cleanup activities of federal, State, local, and private cleanup organizations.

The Coast Guard has the right of inspection and certification of vessels within navigable waters of the United States regarding required oil pollution prevention devices. The Coast Guard is further authorized to certify vessels concerning safe transportation, handling, carriage, storage, and stowage of pollutants.

The Coast Guard is responsible for establishing and maintaining aids to navigation and rescue facilities for promoting safety. In addition, the location of roadsteads, moorages, and fairways require Coast Guard consent. Harbor and navigational concerns are coordinated through the Coast Guard and the United States Army Corps of Engineers.

Further, under the Ports and Waterways Safety Act (33 USC 1221 et seq.), the Secretary of the Department under which the Coast Guard is operating (currently the Department of Transportation) is authorized to:

(1) Establish, operate, and maintain vessel traffic services and systems for ports, harbors, and other waters subject to congested vessel traffic;

(2) Require vessels which operate in an area of a vessel

traffic service or system to utilize or comply with that service or system, including the carrying or installation of electronic or other devices necessary for the use of the service or system;

(3) Control vessel traffic in areas which he determines to be especially hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by -

(a) Specifying times of entry, movement, or departure to, from, within, or through ports, harbors, or other waters;

(b) Establishing vessel traffic routing schemes;

(c) Establishing vessel size and speed limitations and vessel operating conditions; and

(d) Restricting vessel operation, in a hazardous area or under hazardous conditions, to vessels which have particular operating characteristics and capabilities which he considers necessary for safe operation under the circumstances;

(4) Direct the anchoring, mooring, or movement of a vessel when necessary to prevent damage to or by that vessel or her cargo, stores, supplies, or fuel;

(5) Require pilots to be on board self-propelled vessels engaged in the foreign trades in areas and under circumstances where a pilot is not otherwise required by State law;

(6) Establish procedures, measures, and standards for the handling, loading, discharge, storage, stowage, and movement, including the emergency removal, control and disposition, of explosives or other dangerous articles or substances on structures and vessels subject to the Ports and Waterways Safety Act;

(7) Prescribe minimum safety equipment requirements for structures subject to the Ports and Waterways Safety Act to assure adequate protection from fire, explosion, natural disasters, and other serious accidents or casualties;

(8) Establish water or waterfront safety zones or other measures for limited controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters or shore area; and

(9) Establish procedures for examination to insure compliance with the minimum safety equipment requirements for structures.

The Ports and Waterways Safety Act also provides that it does not prevent a State or political subdivision thereof from prescribing, for structures only, higher safety equipment requirements or safety standards than those prescribed pursuant to the Ports and Waterways Safety Act.

All phases of the Authority development program shall be coordinated with the Coast Guard.

c - Department of Defense. All activities which affect navigation within the navigable waters of the United States must have prior approval of the United States Army Corps of Engineers, and such approval is required even if the activity in question will occur outside the territorial limits of the United States. However, in processing permits for activities outside the territorial limits of the United States, the Corps of Engineers must, by law, limit consideration to the navigation or national defense aspects of the proposed activity. In all other cases, the Corps may consider all factors bearing on the public interest including the effect on the environment, particularly with respect to permits for dredging or disposal of spoil in navigable waters. Activities which must have Corps approval include construction, obstruction, excavation, and fill, and extend to drilling platforms and artificial islands located on the outer continental shelf lands.

As discussed under subsection f of Section 4 of this Chapter, relating to the EPA, permit authority for the dumping of solid wastes into the oceans under the nation's control is vested in the EPA and the Corps, to the exclusion of state activity.

In addition to its permit responsibility, the Corps is

charged with designating navigational fairways in the Gulf of Mexico in cooperation with the United States Coast Guard.

The Authority development program shall be coordinated with the Corps of Engineers to assure that Corps permits are issued for all necessary activities.

d - Department of Commerce.

(1) Maritime Administration. The Maritime Administration (MARAD), under the Department of Commerce, is primarily concerned with enhancing the competitive position of American flag vessels and American ship-building. However, MARAD conducts a pollution abatement program, and has promulgated specifications governing control of ship-generated pollutants, including oil, sewage, garbage, and smoke. MARAD also conducts research programs on the effect of oil spills and the development of facilities for the disposal of ship-generated wastes.

The Authority shall seek the advice of the Maritime Administration to obtain the full benefit of the information which it has developed.

(2) National Oceanic and Atmospheric Administration (NOAA). NOAA is engaged in the conservation and development of marine

resources. In addition to its responsibility for the National Weather Service, NOAA has jurisdiction over numerous environmental monitoring and research programs. NOAA's Office of Coastal Environment serves as a clearing house for specialized coastal zone technical information, identifying coastal research problems and solution possibilities. The Office of Coastal Environment implements provisions of the federal Coastal Zone Management Act of 1972, whereby States can receive approval for properly developed coastal zone management programs. Under the interagency cooperation provisions of the Coastal Zone Management Act, other federal agency actions must conform to any approved coastal zone management program. NOAA also provides environmental impact analysis of such activities as dredging, filling, waste disposal, channel construction, drainage, and other matters of environmental concern. Within NOAA is the Office of Sea Grant which administers and directs the National Sea Grant Program, which, in addition to other matters, provides and supports programs by institutions engaged in comprehensive marine research. Also within NOAA is the National Marine Fisheries Service, which conducts biological research and analyzes economic aspects of fisheries operations. With the Coast Guard, NMFS conducts enforcement and surveillance operations on the high seas and in territorial waters. It also studies the relationship be-

tween fish and other marine and estuarine organisms, and investigates the effects of pollution.

The advice and assistance of NOAA shall be sought with reference to all phases of the Authority development program, particularly those relating to coastal zone management.

e - Council on Environmental Quality. The Council on Environmental Quality (CEQ) is charged with reviewing federal programs and activities so as to keep the President informed on the extent to which these activities may affect the policies set forth in the National Environmental Policy Act (NEPA). The Council has issued guidelines to federal agencies for preparation for environmental impact statements. The Council may also issue such instructions to agencies and requests for reports and information as are required for it to carry out its responsibilities under NEPA. All federally required environmental impact statements prepared with respect to all phases of the Authority development program must comply with the regulations issued by the Council.

f - Environmental Protection Agency. Congress has given the Environmental Protection Agency (EPA) a broad mandate to promote enhancement of the environment and to prevent and abate environmental degradation.

Under the Clean Air Act of 1970 (42 USC 1857 et seq.),

EPA has issued air pollution standards which are applicable in all states which do not have an approved implementation plan. The plan submitted by the Louisiana Air Control Commission has been approved by EPA and, therefore, would control within the territorial limits of the State.

EPA has also issued standards governing the discharge of all pollutants, including oil, from any vessel, onshore facility, or offshore facility into the navigable waters of the United States. The implementation plan for water quality submitted by the Louisiana Stream Control Commission has been approved by EPA. Accordingly, that agency has primary authority governing industrial discharges into the waters of the state, although once promulgated the EPA standards will possibly control beyond the territorial jurisdiction of the state.

Further, under the Federal Water Pollution Control Act (33 USC 1151 et seq.), EPA standards for vessel sanitation devices for sewerage disposal are preemptive.

Although EPA is given authority to enact standards relating to noise abatement, at the time of the initial promulgation of this Protection Plan, no such standards have been enacted.

The Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1401 et seq.) establishes a permit system governing

the dumping of material (excluding sewage and oil) into the oceans under the control of the United States. That permit authority is administered jointly by EPA and the United States Army Corps of Engineers. States are prohibited from adopting or enforcing rules or regulations governing such activity.

Finally, EPA regulations require that it receive reports on all discharges of pollutants into the navigable waters of the United States.

The Authority shall not adopt any standards relating to discharges into the atmosphere or waters of the state of Louisiana or the Gulf of Mexico, but shall insure that the applicable standards of the Environmental Protection Agency and the appropriate State agencies are met, and that all necessary permits are obtained.

g - Federal Maritime Commission. The Federal Maritime Commission (FMC) is vested with jurisdiction over vessel certification in accordance with the oil and hazardous substance section of the Federal Water Pollution Control Act, which requires all vessels over three hundred gross tons to have a certificate of financial responsibility before entering any United States port, navigable waters of the United States, or waters of the territorial sea or contiguous zone of the United States.

The Federal Water Pollution Control Act provides that its provision regarding liability of shipowners and terminal facilities are not to be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substances into any waters within such State.

The financial responsibility provisions of this Protection Plan are intended to supplement the financial responsibility certification authority of the FMC.

h - Other Federal Agencies. The agencies discussed above are those whose policies and activities would have most relevance to the environmental programs adopted by the Authority. However, other federal agencies are concerned with environmental matters, and may also have to be contacted.

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 Com-

mission, 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.[2/]

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.

2/ 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.

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.

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 facil-

ities 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 Commis-

sion 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 in-

volved, 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 in conflict 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 Secretary of State, pursuant to the provisions of the General Rules and Regulations of the Deep Draft Harbor and Terminal Authority.

Approved by the Governor: July 12, 1972.

A true copy:

WADE O. MARTIN, JR.
Secretary of State.

ACT No. 444

Senate Bill No. 714.

By: Messrs. Kiefer, W. D. Brown, Guillory, Bauer, Blair, C. M. Brown, J. H. Brown, Carter, Davis, DeBlieux, Duplantier, Duval, Dykes, Eagan, Fontenot, Foshee, Gerald, Hardy, Hickey, Jones, Jumonville, Kilpatrick, Knowles, Lambert, Lauricella, Montgomery, Mouton, Nicholson, Nunez, O'Keefe, Osterberger, Peltier, Poston, Rayburn, Smither, Tassin, Tiemann, Williamson and Windhorst and Reps. Accardo, Ackal, Chabert, Fowler, Guidry, John, LeBlanc, Marullo, Strain, Tauzin, M. Thompson, Triche, Turnley and Womack.

AN ACT

To amend Title 34 of the Louisiana Revised Statutes of 1950 to add thereto a new Chapter to be designated as Chapter 35 thereof and to comprise Section 3101 through Section 3114 thereof, both inclusive, to create a Deep Draft Harbor and Terminal Authority as a political subdivision of the state of Louisiana, possessing full corporate powers, to define its authority and functions, to provide for organization and government, to define its duties, powers and jurisdiction as the governing authority, and to delegate to it authority to own, construct, operate and maintain docks, wharves, sheds, elevators, locks, slips, laterals, basins, warehouses and all other property, structures, works of public improvement necessary and useful for a deep draft harbor and terminal basin, to dredge and maintain shipways, channels, slips, basins and turning basins, to establish, operate and maintain, in cooperation with the federal government and state of Louisiana, its various agencies, subdivisions and such bodies, a deep draft harbor and terminal in and upon the waterbottoms of the Gulf of Mexico and the Continental Shelf, to exercise the right of eminent domain, to enter into leases with the United States of America, state of Louisiana, subdivisions thereof and other public and private agen-

cies, acquiring a lease, right of way or servitude over the waterbottoms of such land as may be necessary for the business of said Authority to collect tolls and fees, to borrow funds for the business of such Authority, to incur debts and issue bonds for the needs of such Authority in a manner provided by the Constitution and the laws of the United States, and the state of Louisiana, to provide for an Environmental Protection Plan to protect the coastal environment from damage, to authorize lease or sublease of lands leased from the State of Louisiana, to negotiate and enter into contracts or agreements with any public or private individual or corporation including, but not limited to contracts or agreements for the construction and operation of a petroleum terminal as an interstate common carrier and generally, to employ said Boards to do any and all things necessary and proper for the governing, regulation, development and control of the business of such Deep Draft Harbor and Terminal Authority.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 35 of Title 34 of the Louisiana Revised Statutes of 1950, comprising R.S. 34:3101 through R.S. 34:3114, both inclusive, is hereby enacted to read as follows:

CHAPTER 35. DEEP DRAFT HARBOR AND TERMINAL AUTHORITY

§3101. Object; purpose of Act

A. It is the object and purpose of this Act to provide for the creation of a political subdivision of the state of Louisiana, possessing full corporate powers, known as the Deep Draft Harbor and Terminal Authority, hereinafter referred to as the "Authority", to promote, plan, finance, develop, construct, control, operate, manage, maintain and modify a deep draft harbor and terminal within the jurisdiction of said Authority and in order to promote the economic welfare of its citizens, and to provide the necessary facilities for docking, loading and unloading of vessels carrying liquid or dry bulk and energy cargoes. It is hereby declared to be in the public interest that this Deep Draft Harbor and Terminal Authority be created as a political subdivision of the state of Louisiana.

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

1. To promote the economic industrial wellbeing* of the existing port authorities of the state of Louisiana and to promote interstate, national and international trade for the state of Louisiana, its subdivisions and the area served by the Mississippi River and its tributaries, and to provide that

* As it appears in the enrolled bill.

existing ports take such steps individually and collectively to assure the maintenance of the economic wellbeing* of each port authority, as well as the whole;

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, recreational, and all other uses of the Deep Draft Harbor and Terminal 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 Deep Draft Harbor and Terminal;

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 Deep Draft Harbor and Terminal outside the state of Louisiana where such development may have an impact upon the state of Louisiana;

7. The authority to constitute a political subdivision of the state of Louisiana and such functions exercised by the board empowered herein shall be deemed to be held as governmental functions of the state of Louisiana, as the exercise of the powers granted herein will, in all respects, be to the benefit of the people of the state, for the increase of their commerce and prosperity and for the improvement of their economic condition;

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 the Act or upon the income therefrom, and 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.

§3102. Definitions

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

(1) "Deep Draft Harbor and Terminal" means a structure, or series of structures or facility of any type emplaced in coastal waters and designed to accommodate the cargo or passengers of deep draft vessels whose draft is greater than

* As it appears in the enrolled bill.

the depths of typical inland harbors and waterways commonly used by ocean going traffic during the first half of the twentieth century, including all those structures and facilities functionally 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 a Deep Draft Harbor and Terminal may go, including but not limited to promoting the concept, raising funds to support the program, planning the uses of the facility, selecting a site for the physical facility and support facilities, designing the structures, constructing the facility and the support facilities, operating and maintaining the facility, expanding or renovating the facility, modification and retirement of the facility, 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 Deep Draft Harbor and Terminal Authority which establishes those steps to be followed to insure the protection of the environment throughout all phases of the Authority Development Program.

(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) "Facility" means any structure or improvement actively used on a regular basis in waterborne commerce.

(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 it's* tidelands or the location of Louisiana's coastline as interpreted by the State of Louisiana.

§3103. Jurisdiction; domicile

A. The Authority shall have exclusive jurisdiction over the Authority Development Program within the coastal waters of Louisiana. The jurisdiction of the Authority shall not include or extend to the taking, control or operation of exist-

* As it appears in the enrolled bill.

ing, proposed or future facilities of existing port authorities except by mutual agreement.

B. The Authority shall have the right to acquire by lease or purchase waterbottoms inside and outside of the territorial limits of the state of Louisiana for use in the construction, operation or maintenance of the facilities functionally required, related, necessary or useful to the operation of the Authority.

C. The domicile of the Authority shall be in the city of New Orleans; however, by appropriate act of the board of commissioners the domicile may be relocated to an appropriate location within the structures and facilities constructed or acquired by the Authority.

§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 deep draft harbor and terminal, the first vacancy occurring on the board shall be filled by appointment of a resident of a parish in which, or offshore from which, the deep draft harbor and 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 deep draft harbor and terminal is to be located. If the deep draft harbor and 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.

§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 it own rules, which shall be adopted and promulgated in accordance with law.

F. The board of commissioners shall meet at lease* 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.

§3106. Annual reports; revenues dedicated to Authority;

* As it appears in the enrolled bill.

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 Act 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 records 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.

§ 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 func-

tions, 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.

§ 3108. Acquisition of sites; lease of stateowned waterbottoms

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 stateowned waterbottoms in the Gulf of Mexico which are selected by the Authority as sites for the Deep Draft Harbor and Terminal; 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 sale of such leases of stateowned waterbottoms 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 Part is intended to authorize the Authority to lease stateowned waterbottoms 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 Wild Life* and Fisheries Commission to lease for such purposes. However, tracts once leased to the Deep Draft Harbor and Terminal Authority may not be leased by the state mineral board or the Louisiana Wild Life* and Fisheries Commission without the express consent of the Au-

* As it appears in the enrolled bill.

thority, unless it can be shown by the state mineral board or the Louisiana Wild Life* and Fisheries Commission, by clear and convincing evidence, that such lease or leases will not adversely affect present or future Authority operations.

§3109. Powers

A. The Authority shall be vested with exclusive and plenary authority to do any and all things necessary or proper for the Authority to promote, plan, finance, develop, construct, control, operate, manage, maintain and modify the Authority Development Program.

B. To assert Louisiana's interest in any Deep Draft Harbor and Terminal 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 Deep Draft Harbor and Terminal, sharing of revenues derived from the operation of the Deep Draft Harbor and Terminal 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 railraods* and works of public improvement necessary or useful for Deep Draft Harbor and Terminal purposes.

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

* As it appears in the enrolled bill.

event of the acquisition of a servitude, or use of any state-owned 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 Section 3108 of this Chapter.

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* 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.

§ 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

* As it appears in the enrolled bill.

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 Deep Draft Harbor and Terminal Authority except as provided in this Act.

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.

§ 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 Louisiana Revised Statutes 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 advertising, 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.

§ 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 Consti-

tution 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, carry 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 105% 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.

§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.

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 La. 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 Act. 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 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 amendments 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 Act. 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 Act.

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 the Louisiana Wild Life* and

* As it appears in the enrolled bill.

Fisheries Commission; establishment of constructional and operational guidelines for environmental protection; strong enforcement provisions, and mechanisms to insure cleanup of accidental spills by technical means, with a surety bond to insure performance. 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 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 and 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 Coastal 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.

§3114. Coordination and cooperation

A. It 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.

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 trans-

* As it appears in the enrolled bill.

portation 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.

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: July 12, 1972.

A true copy:

WADE O. MARTIN, JR.
Secretary of State.

COASTAL ZONE
INFORMATION CENTER

NOAA COASTAL SERVICES CENTER LIBRARY
3 6668 14105 7770