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States' Wetlands Permitting Statutes:

Louisiana



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LA Rev. Stat. tit.49, ch. 2, Part II, Subpart C

Current through ch. 254 of the 152nd General Assembly (2023-2024).

LA Rev. Stat. § 49:214.21. Short title.

This Subpart shall be known and may be cited as the State and Local Coastal Resources Management Act of 1978.

LA Rev. Stat. § 49:214.22. Declaration of public policy.

The legislature declares that it is the public policy of the state:

(1) To protect, develop, and, where feasible, restore or enhance the resources of the state's coastal zone.

(2)

(a) To assure that, to the maximum extent feasible, constitutional and statutory authorities affecting uses of the coastal zone should be included within the Louisiana Coastal Management Program and that guidelines and regulations adopted pursuant thereto shall not be interpreted to allow expansion of governmental authority beyond those laws.

(b) To express certain regulatory and non-regulatory policies for the coastal zone management program. Regulatory policies are to form a basis for administrative decisions to approve or disapprove activities only to the extent that such policies are contained in the statutes of this state or regulations duly adopted and promulgated pursuant thereto. They are to be applicable to each governmental body only to the extent each governmental body has jurisdiction and authority to enforce such policies. Other policies are nonregulatory. They are included in the Coastal Zone Management Plan to help set out priorities in administrative decisions and to inform the public and decision makers of a coherent state framework, but such policies are not binding on private parties.

(3) To support and encourage multiple use of coastal resources consistent with the maintenance and enhancement of renewable resource management and productivity, the need to provide for adequate economic growth and development and the minimization of adverse effects of one resource use upon another, and without imposing any undue restriction on any user.



(4) To employ procedures and practices that resolve conflicts among competing uses within the coastal zone in accordance with the purpose of this Subpart and simplify administrative procedures.

(5) To develop and implement a coastal resources management program which is based on consideration of our resources, the environment, the needs of the people of the state, the nation, and of state and local government.

(6) To enhance opportunities for the use and enjoyment of the recreational values of the coastal zone.

(7) To develop and implement a reasonable and equitable coastal resources management program with sufficient expertise, technical proficiency, and legal authority to enable Louisiana to determine the future course of development and conservation of the coastal zone and to ensure that state and local governments have the primary authority for managing coastal resources.

(8) To support sustainable development in the coastal zone that accounts for potential impacts from hurricanes and other natural disasters and avoids environmental degradation resulting from damage to infrastructure caused by natural disasters.

LA Rev. Stat. § 49:214.23. Definitions.

(1) "Alternative access" shall mean methods of gaining access, ingress and egress, other than by the dredging of canals into the wetlands for drilling, servicing, work over, or any other production of minerals activity.

(2) "Alternative access vehicle" shall mean any hover craft, helicopter, air cushion vehicle, or any other vehicle which does not require dredging.

(3) "Coastal use permit" shall mean the permits required by R.S. 49:214.30 of this Subpart and shall not mean or refer to, and shall be in addition to, any other permit or approval required or established pursuant to any other constitutional provision or statute.

(4) "Coastal waters" shall mean bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone which have measurable seawater content (under normal weather conditions over a period of years).

(5) "Coastal Zone" shall mean the coastal waters and adjacent shorelands within the boundaries of the coastal zone established in R.S. 49:214.24, which are strongly influenced by each other, and in proximity to the shorelines, and uses of which have a direct and significant impact on coastal waters.

(6) "Fastlands" are lands surrounded by publicly owned, maintained, or otherwise validly existing levees, or natural formations, as of the effective date of this Subpart or as may be lawfully constructed in the future, which



levees or natural formations would normally prevent activities, not to include the pumping of water for drainage purposes, within the surrounded area from having direct and significant impacts on coastal waters.

(7) "Guidelines" means those rules and regulations adopted pursuant to R.S. 49:214.27.

(8) "Local government" shall mean the governmental body having general jurisdiction and operating at the parish level.

(9) "Person" shall mean any individual, partnership, association, trust, corporation, public agency or authority, or state or local government body.

(10) "Public hearing", wherever required in this Subpart, shall mean a hearing announced to the public at least 30 days in advance, and at which all interested persons shall be afforded a reasonable opportunity to submit data, views, or arguments, orally or in writing. At the time of the announcement of the public hearing all materials pertinent to the hearing, including documents, studies, and other data, in the possession of the party calling the hearing, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the party which conducted the hearing.

(11) "Residential coastal use" shall mean any coastal use associated with the construction or modification of one single-family, duplex, or triplex residence or camp. It shall also include the construction or modification to any outbuilding, bulkhead, pier, or appurtenance on a lot on which there exists a single-family, duplex, or triplex residence or camp or on a water body which is immediately adjacent to such lot.

(12) "Secretary" shall mean the secretary of the Department of Energy and Natural Resources or his designee.

(13) "Use" shall mean any use or activity within the coastal zone which has a direct and significant impact on coastal waters.

LA Rev. Stat. § 49:214.24. Coastal zone boundary.

A. The seaward boundary of the coastal zone of Louisiana shall be the seaward limit of the state of Louisiana as determined by law.

B. The interstate boundaries of the coastal zone shall be the boundary separating Louisiana from Texas on the west and the boundary separating Louisiana from Mississippi on the east, as each is determined by law.

C. The inland boundary of the coastal zone shall generally be a line beginning at a point on the Louisiana/Texas border approximately 1035 feet southerly of the centerline of Interstate Highway 10 (I-10) at the northern boundary of Section 9, T11S-R13W. From this Point of Beginning, the inland boundary



of the coastal zone shall thence proceed easterly along the northern boundary of Sections 9, 10, 11, 12, T11S-R13W, Sections 7, 8, 9, 10, 11, 12, T11S-R12W, Sections 7, 8, 9, 10, 11, 12T11S-R11W, and Section 7, T11S-R10W a distance of approximately 89,076 feet to the intersection of the left descending bank of Bayou Choupique; thence southerly along the left descending bank of Bayou Choupique a distance of approximately 56,800 feet to the intersection of the north shore of the Gulf-Intracoastal Waterway; thence easterly along the north shore of the Gulf-Intracoastal Waterway a distance of approximately 29,225 feet to the intersection of the right descending bank of Black Bayou; thence northerly along the right descending bank of Black Bayou a distance of approximately 7,028 feet to the intersection of the right descending bank of Coulee Hippolyte; thence northerly along the right descending bank of Coulee Hippolyte approximately 12,100 feet to the extension of the eastern right-of-way of Nelson Road; thence northerly along the eastern right-of-way of Nelson Road approximately 4,968 feet to the southern right-of-way of W. Lincoln Road; thence easterly along the southern right-of-way of W. Lincoln Road approximately 11,928 feet to the western right-of-way of Louisiana Highway 385 (Gulf Highway); thence southerly along the western right-of-way of Louisiana Highway 385 (Gulf Highway) approximately 20,180 feet to the northern Cameron Parish boundary; thence easterly along the northern Cameron Parish boundary approximately 194,110 feet to the northeast corner of Cameron Parish; thence southerly along the boundary of Cameron/Vermilion Parishes approximately 43,122 feet to the north shore of the Gulf-Intracoastal Waterway; thence easterly along the north shore of the Gulf-Intracoastal Waterway approximately 109,994 feet to the eastern right-of-way of Louisiana Highway 82; thence northerly along the eastern right-of-way of Louisiana Highway 82 a distance of approximately 3,731 feet to its intersection with Louisiana Highway 35; thence easterly along the southern right-of-way of Louisiana Highway 82 a distance of approximately 40,638 feet to its intersection with Louisiana Highway 333; thence northerly along the eastern right-of-way of Louisiana Highway 82 a distance of approximately 16,480 feet to the southern right-of-way of Louisiana Highway 690; thence easterly along the southern right-of-way of Louisiana Highway 690 a distance of approximately 23,157 feet to the southern right-of-way of Louisiana Highway 330; thence continuing easterly along the southern right-of-way of Louisiana Highway 330 a distance of approximately 28,303 feet to a point where Louisiana Highway 330 takes a 90-degree turn to the north; thence northerly along the eastern right-of-way of Louisiana Highway 330 a distance of approximately 28,632 feet to a point approximately 188 feet north of the centerline of Wilferd Landry Street, in Delcambre; thence N 89 degrees 05 minutes 01 seconds W a distance of approximately 1,457 feet; thence N 00 degrees 23 minutes 30 seconds W a distance of approximately 276 feet; thence N 88 degrees 43 minutes 94 seconds W a distance of approximately 1,380 feet; thence N 00 degrees 26 minutes 05 seconds W a distance of approximately 2,661 feet to the intersection of the centerline of North Saunier Drive and the



extension of the eastern right-of-way of Louisiana Highway 89; thence northerly along the eastern right-of-way of Louisiana Highway 89 a distance of approximately 539 feet; thence N 86 degrees 26 minutes 50 seconds E a distance of 1,475 feet; thence N 01 degrees 09 minutes 06 seconds E a distance of 654 feet; thence S 89 degrees 30 minutes 31 seconds E a distance of 337 feet to a point on the Vermilion/Iberia Parish boundary; thence northerly along the parish boundary a distance of approximately 19,351 to the southern right-of-way of Louisiana Highway 682 (Lake Peigneur Road); thence southeasterly along the southern right-of-way of Louisiana Highway 682 a distance of 10,230 feet to the northern right-of-way of Louisiana Highway 675 (Jefferson Island Road); thence southwesterly along the northern right-of-way of Louisiana Highway 675 a distance of approximately 15,576 feet to the southern right-of-way of Louisiana Highway 14; thence easterly along the southern right-of-way of Louisiana Highway 14 a distance of approximately 42,067 feet to the southern right-of-way of US Highway 90; thence easterly along the southern right-of-way of US Highway 90 a distance of approximately 50,265 feet to the southern right-of-way of Louisiana Highway 85 (Patoutville Road); thence northeasterly along the southern right-of-way of Louisiana Highway 85 a distance of approximately 5,826 feet to the southern right-of-way of Louisiana Highway 674 (East Admiral Doyle Drive); thence southeasterly along the southern right-of-way of Louisiana Highway 674 a distance of approximately 9,997 feet to the southern right-of-way of Louisiana Highway 85 (Huberville Road); thence northeasterly along the southern right-of-way of Louisiana Highway 85 a distance of approximately 6,160 feet to the northern right-of-way of Glover Street; thence northwesterly along the northern right-of-way of Glover Street a distance of approximately 2,140 feet; thence N 42 degrees 30 minutes 50 seconds E along the eastern right-of-way of Doll Street a distance of approximately 1,794 feet to the right descending bank of Bayou Teche; thence southerly along the right descending bank of Bayou Teche a distance of approximately 12,314 feet to the St. Mary Parish boundary; thence northerly along the Iberia/St. Mary Parish boundary a distance of approximately 40,881 feet to the eastern right-of-way of Iberia Parish Road 305 (West Atchafalaya Basin Spillway Road); thence northerly along the eastern right-of-way of Iberia Parish Road 305 a distance of approximately 32,791 feet to the Iberia Parish boundary; thence easterly along the Iberia/St. Martin and Iberia/Iberville Parish boundaries a distance of approximately 134,940 feet to the Assumption Parish boundary; thence continuing easterly along the Assumption/Iberville and Assumption/Ascension Parish boundaries a distance of approximately 94,422 feet to the St. James Parish boundary; thence continuing easterly along the St. James/Ascension Parish boundary a distance of approximately 46,802 feet to the eastern right-of-way of the Entergy tower power line near the western boundary of Section 31, T10S – R4E; thence northerly along the east right-of-way line of the Entergy tower power line a distance of 14,248 feet to the northern right-of-way of Interstate Highway 10 (I-10) located in Section 19, T10S-R4E; thence southeasterly



along the northern right-of-way of I-10 a distance of 27,411 feet to the east section line of Section 26, T10S-R4E; thence northerly along the east section lines of Sections 26, 23, 14, and 11, T10S-R4E a distance of 15,704 feet to the northern drainage servitude line of New River Canal; thence westerly along the northern drainage servitude line of New River Canal a distance of 6,121 feet to the eastern drainage servitude line of Sevario Canal (Marvin Braud Pumping Station) located in Section 10, T10S-R4E; thence northerly along the east drainage servitude line of Sevario Canal a distance of 12,599 feet to the toe of the levee on the east bank of an unnamed tributary located in the northeast quarter of Section 34, T9S-R4E; thence proceed in a northeasterly and northwesterly direction along the floodside toe of the levee on the east bank of an unnamed tributary a distance of 1,221 feet to the north section line of Section 34, T9S-R4E and also at the toe of an existing levee heading east; thence easterly along the north section line and also the floodside toe of the levee a distance of 1,530 feet to a turn in the levee northward; thence northeasterly along the floodside toe of the levee a distance of 1,440 feet to a turn in the levee westward; thence westerly along the floodside toe of the levee a distance of 2,354 feet to the west bank of the unnamed tributary in Section 27, T9S-R4E; thence northerly along the west bank of the unnamed tributary a distance of 2,716 feet to the extension of the floodside toe of an existing levee heading southeasterly from the unnamed tributary; thence southeasterly, then northeasterly, then northwesterly along the floodside toe of the levee a distance of 5,794 feet to the northern right-of-way of Laurel Ridge Levee and the south right-of-way of Louisiana Highway 22 located in the southeast quarter of Section 22, T9S-R4E; thence northwesterly along the north right-of-way line of Laurel Ridge Levee a distance of 4,085 feet to a turn in the levee westward and located in the southwest quarter of Section 15, T8S-R4E; thence westerly along the north right-of-way line of Laurel Ridge Levee a distance of 10,313 feet to a point being 1,100 feet west of Bayou Vicknair in the southwest quarter of Section 17, T8S-R4E; thence N 10 degrees 02 minutes 34 seconds E a distance of 4,966 feet along the eastern side of a ridge following the elevation 5 feet contour line to a point located in the northern half of Section 17, T8S-R4E; thence proceed N 02 degrees 55 minutes 03 seconds W a distance of 4,641 feet to a point located on the top of an elevation 5 feet knoll located south of Lake Martin in the northern half of Section 8, T8S-R4E; thence N 47 degrees 59 minutes 42 seconds W a distance of 2,335 feet to a point located in the northern half of Section 8, T8S-R4E; thence N 32 degrees 31 minutes 50 seconds W a distance of 1,236 feet to a point located on the west section line of Section 5, T8S-R4E; thence proceed northerly along the west section line of said Section 5 and the west section line of Section 32, T8S-R4E a distance of 5,517 feet to a point located in the southeast quarter of Section 31, T8S-R4E; thence N 71 degrees 41 minutes 16 seconds W a distance of 1,926 feet to a point on the west bank of an unnamed tributary of Lake Villars in Section 31, T8S-R4E; thence an approximate direction of N 16 degrees 30 minutes 04 seconds W proceed along the west bank of an unnamed tributary of Lake Villars a



distance of 2,094 feet to a point in Section 31, T8S-R4E; thence an approximate direction of N 46 degrees 41 minutes 16 seconds W along the west bank of an unnamed tributary of Lake Villars a distance of 899 feet to a point in Section 31, T8S-R4E; thence an approximate direction of N 08 degrees 16 minutes 33 seconds E along the west bank of an unnamed tributary of Lake Villars a distance of 1,134 feet to a point in Section 30, T8S-R4E; thence an approximate direction of N 34 degrees 16 minutes 41 seconds W along the west bank of an unnamed tributary of Lake Villars a distance of 1,348 feet to the southern right-of-way of Summerfield Road located in the southern half of Section 30, T8S-R4E; thence westerly along the southern right-of-way of Summerfield Road a distance of 2,010 feet to the centerline of Louisiana Highway 431 located in the southern half of Section 25, T8S-R4E; thence S 87 degrees 57 minutes 12 seconds W a distance of 4,226 feet to a ridge top with elevation 15 feet located in the southern half of Section 25, Township 8 South, Range 3 East; thence N 01 degrees 10 minutes 10 seconds W a distance of 6,333 feet to the edge of the swamp and the elevation 5 feet contour line near the southeast corner of the Shiloh Church Cemetery located south of Louisiana Highway 42 located in the northern half of Section 3, T8S-R3E; thence N 77 degrees 24 minutes 19 seconds E along the elevation 5 feet contour line a distance of 1,498 feet to a point located on the east section line of Section 3, T8S-R3E; thence S 51 degrees 07 minutes 20 seconds E a distance of 3,562 feet to a point on the east section line of Section 24, T8S-R3E and the extension of the southern right-of-way of Louisiana Highway 42/Amite River crossing being on an elevation 5 feet plateau located in the southern half of Section 24, Township 8 South, Range 3 East, Southeast District, East of Mississippi River; thence easterly along the extension of the south right-of-way of Louisiana Highway 42/Amite River crossing a distance of 663 feet to the centerline of the Amite River at the Livingston Parish boundary; thence continuing easterly along the southern right-of-way of Louisiana Highway 42 a distance of approximately 926 feet to the southern right-of-way of combined Louisiana Highways 16/42; thence easterly along the southern right-of-way of combined Louisiana Highways 16/42 a distance of approximately 16,619 feet to the southeastern right-of-way of Louisiana Highway 42 where it diverges from combined Louisiana Highways 16/42; thence northeasterly (becoming easterly) along the southeastern (becoming southern) right-of-way of Louisiana Highway 42 a distance of approximately 106,632 feet to the southeasterly right-of-way of Louisiana Highway 22; thence northeasterly along the southeasterly (becoming southern) right-of-way of Louisiana Highway 22 a distance of approximately 88,428 feet to the Tangipahoa/St. Tammany Parish boundary; thence northerly along the Tangipahoa/St. Tammany Parish boundary a distance of approximately 15,829 feet to the southern right-of-way of Interstate Highway 12 (I-12); thence easterly along the southern right-of-way of I-12 a distance of approximately 172,968 feet to the southern right-of-way of Interstate Highway 10 (I-10); thence continued easterly along the southern right-of-way of I-10 a distance of approximately 32,514 feet to the termination point at the



intersection of southern right-of-way of I-10 with the Louisiana/Mississippi state border.

D. The secretary shall adopt a fully delineated inland boundary in accordance with the provisions of Subsection C of this Section, which boundary shall not depart appreciably from the boundary delineated therein. The secretary shall be authorized to amend the boundary as may be appropriate to follow the corporate limits of any municipality divided by the boundary. The boundary, as adopted, shall be clearly marked on large scale maps or charts, official copies of which shall be available for public inspection in the office of coastal management of the Department of Energy and Natural Resources and each local government in the coastal zone. The boundary shall also be available in an electronic format map available for viewing or download from the office of coastal management website.

LA Rev. Stat. § 49:214.25. Types of uses.

A. Uses of the coastal zone subject to the coastal use permitting program shall be of two types:

(1) Uses of state concern: Those uses which directly and significantly affect coastal waters and which are in need of coastal management and which have impacts of greater than local significance or which significantly affect interests of regional, state, or national concern. Uses of state concern shall include, but not be limited to:

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

(2) Uses of local concern: Those uses which directly and significantly affect coastal waters and are in need of coastal



management but are not uses of state concern and which should be regulated primarily at the local level if the local government has an approved program. Uses of local concern shall include, but not be limited to:

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

B. Subject to the provisions of this Subpart, the delineation of uses of state or local concern shall not be construed to prevent the state or local governments from otherwise regulating or issuing permits for either class of use pursuant to another law.

C. The secretaries of the Departments of Energy and Natural Resources and Wildlife and Fisheries are authorized to jointly develop for adoption by the secretary, after notice and public hearing, rules for the further delineation of the types of uses that have a direct and significant impact on coastal waters and that demonstrate a need for coastal management, the classification of uses not listed herein, and for the modification and change of the classifications of uses, provided that no changes shall be made in the classifications of the uses listed in Subsection A of this Section.

D. In order for the state to exercise all or part of the federal government's authority for the issuance of permits for discharges of dredged or fill material within the coastal zone, the secretary is authorized to adopt necessary and appropriate rules, consistent with the other provisions of this statute, for the regulation of discharges of dredged or fill material into waters in the coastal zone subject to Section 404 regulation by the Corps of Engineers.



E. When only part of a use lies within the coastal zone, only that portion of the use which is located within the coastal zone is considered a use subject to a coastal use permit under this Subpart.

F. Except as provided in this Subsection, all uses and activities within the coastal zone are permissible, subject to the permitting requirements of this Subpart. However, dredging sand pits and excavating within three hundred feet of Highway 1, south of the town of Golden Meadow in Lafourche Parish, unless such excavating is associated with a drainage, utility, communications, pipeline, or fiber optic project for which a coastal use permit has been issued, shall be prohibited and shall not qualify for a coastal use permit. Any excavation associated with a pipeline project shall be refilled once the project is complete.

LA Rev. Stat. § 49:214.26. Coastal management program; administration.

A.

(1) A coastal management program is hereby established within the Department of Energy and Natural Resources. The secretary or his designee shall administer the coastal management program.

(2) The secretary is authorized to employ such additional staffing as may be necessary to carry out the coastal management program.

B. The secretary may authorize his designee to administer the program and/or:

(1) Receive, evaluate, and make recommendations to the secretary concerning applications for coastal uses permits.

(2) Conduct or cause to be conducted investigations, studies, planning, and research.

(3) Systematically monitor and conduct surveillance of permitted uses to ensure that conditions of coastal use permits are satisfied.

(4) Coordinate closely with the secretary and local, state, regional, and federal agencies with respect to coastal management.

(5) Make recommendations to the secretary relative to appropriate enforcement measures for violations of this Subpart and measures to obtain civil relief, as provided by R.S. 49:214.36(D).

(6) Provide advice and technical assistance to the secretary and local governments.

(7) Conduct such activities or make such decisions as may be delegated or authorized by the secretary.



C. The secretary shall make decisions on applications for coastal use permits and may establish conditions on the granting of coastal use permits.

D. The secretary is further authorized to carry out those duties delegated to his designee by Subsection B of this Section.

LA Rev. Stat. § 49:214.27. Coastal management programs; development; guidelines.

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

B.

(1) The secretary shall develop a management program and guidelines in conjunction with the secretary of the Department of Wildlife and Fisheries or his designee. Notice of the issuance of the proposed guidelines shall be given to relevant federal, state, and local governmental bodies and the general public, and public hearings shall be held. After consideration of comments received, the secretary shall adopt the guidelines in final form.

(2) The adopted guidelines shall be followed in the development of the state program and local programs and shall serve as criteria for the granting, conditioning, denying, revoking, or modifying of coastal use permits. The secretary, jointly with the secretary of the Department of Wildlife and Fisheries or his designee, shall review the guidelines periodically at the request of either secretary to consider modifications to the guidelines as a result of experience in issuing coastal use permits and results of research and planning activities.

C. The state guidelines shall have the following goals:

(1) To encourage full use of coastal resources while recognizing it is in the public interest of the people of Louisiana to establish a proper balance between development and conservation.

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

(3) Require careful consideration of the impacts of uses on water flow, circulation, quantity, and quality and require that the discharge or release of any pollutant or toxic material into the



water or air of the coastal zone be within all applicable limits established by law, or by federal, state, or local regulatory authority.

(4) Recognize the value of special features of the coastal zone such as barrier islands, fishery nursery grounds, recreation areas, ports and other areas where developments and facilities are dependent upon the utilization of or access to coastal waters, and areas particularly suited for industrial, commercial, or residential development and manage those areas so as to enhance their value to the people of Louisiana.

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

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

(7) Reduce governmental red tape and costly delays and ensure more predictable decisions on permit applications.

(8) Encourage such multiple uses of the coastal zone as are consistent with the purposes of this Subpart.

(9) Minimize detrimental effects of foreseeable cumulative impacts on coastal resources from proposed or authorized uses.

(10) Provide ways to enhance opportunities for the use and enjoyment of the recreational values of the coastal zone.

(11) Require the consideration of available scientific understanding of natural systems, available engineering technology and economics in the development of management programs.

(12) Establish procedures and criteria to ensure that appropriate consideration is given to uses of regional, state, or national importance, energy facility siting and the national interests in coastal resources.

D.

(1) In the development and implementation of the overall coastal management program, the secretary shall conduct a public education program to inform the people of the state of the provisions of this Subpart and the rules and regulations adopted pursuant hereto, and participation and comments by federal, state, and local governmental bodies, including port authorities, levee boards, regional organizations, planning bodies, municipalities and public



corporations, and the general public shall be invited and encouraged.

(2) All governmental bodies may participate to ensure that their interests are fully considered.

E.

(1) The secretary shall issue a request for proposals to all major manufacturers of alternative access vehicles and all major oil producers, and shall accept from any interested party proposals to physically demonstrate methods which are technically and economically feasible as well as environmentally sound to gain alternative access to the wetlands for the purpose of oil and gas operations in lieu of the need for dredging.

(2) The secretary shall complete the demonstration project at no cost to the state and report his findings on the technical and economic feasibility of alternative access to the committees on natural resources of the Senate and House of Representatives by March 1, 1988.

LA Rev. Stat. § 49:214.28. Local coastal management programs.

A. Local governments may develop local coastal management programs in accordance with the provisions of this Section.

B. The secretary shall adopt, after notice and public hearing, rules and procedures for the development, approval, modification, and periodic review of local coastal management programs. Such rules and procedures may subsequently be amended by the secretary.

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

(1) Local governments, in developing local programs, shall afford full opportunity for municipalities, state and local government bodies, and the general public to participate in the development and implementation of the local program.

(2) A public hearing to receive comments on a proposed local program shall be held in the area to be subject to the program by the local government proposing the program or its duly appointed local committee.

(3) A local program developed under this Section shall be consistent with the state guidelines and with the policies and objectives of this Subpart and shall particularly, but not exclusively, consist of:

(a) A description of the natural resources and the natural resource users of the coastal zone area within the parish, the social and economic needs within particular areas of the



coastal zone of the parish, and the general order or priority in which those needs which directly and significantly affect coastal waters should be met within the coastal zone of the parish.

(b) Procedures to be used by the local government to regulate uses of local concern.

(c) Special procedures and methods for considering uses within special areas, uses of greater than local benefit, and uses affecting the state and national interest.

(4) Each local government preparing a local program under this Section may appoint a coastal advisory committee, hereinafter called "local committee". The local committee shall be composed of a reasonable number of persons who represent users of coastal resources and shall include representation of users concerned with conservation and preservation of renewable coastal resources and users concerned with development of resources for commercial purposes. The local committee shall assist local government in the development and implementation of a local program and in the development of special management programs affecting special areas. The local committee may report progress or problems in the implementation of the state and local programs and may convey ideas and suggestions to the local governments and the secretary.

(5) Local programs shall be submitted to the secretary for review and may be submitted after promulgation of the state guidelines and the rules adopted pursuant to this Section.

D. In approving a local program, the secretary, acting jointly with the secretary of the Department of Wildlife and Fisheries or his designee, may make reasonable interpretations of the state guidelines insofar as they affect that particular local program, which are necessary because of local environmental conditions or user practices. The secretary may otherwise provide for the requirements for approval of local programs.

E. Within ninety days after receipt of a proposed local program, the secretary shall either approve the program or notify the local government of the specific changes which must be made in order for it to be approved. Before making his decision the secretary shall consider each proposed local program, the comments received from other agencies, interested persons and the public hearing, the state guidelines and the rules adopted pursuant to this Section. A local program may be resubmitted, or amended following the same procedures outlined herein.

F. A local government or any other persons adversely affected by a decision of the secretary pursuant to R.S. 49:214.28(E) may appeal the decision in accordance with R.S. 49:214.35.



G. No local coastal program shall become effective until it has been approved by the secretary. Once approved, a local program shall be available for public inspection at the offices of the local government and of the coastal management program.

H. Once a local program is approved by the secretary:

(1) Uses of local concern within the parish's coastal zone must be consistent with the local program and shall be subject to the issuance of coastal use permits by the local government.

(2) The local program may be altered or modified only with approval of the secretary pursuant to the procedures provided for approval of local program.

(3) The local program, its procedures and implementation shall be subject to periodic review by the secretary to ensure continued consistency with the state program, guidelines, and with the policies and purpose of this Subpart. The secretary shall require the modification of the local program or its procedures when necessary to ensure such consistency pursuant to the procedures provided for approval of a local program.

I. The secretary is authorized to enter into contracts with local governments to provide financial assistance on a matching fund basis to aid the development and implementation of approved local programs under this Subpart. The secretary shall develop rules and procedures after notice and public hearing, under which local governments may qualify for such assistance.

LA Rev. Stat. § 49:214.29. Special areas, projects, and programs.

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

B. The secretary shall adopt, after notice and public hearing, rules for the identification, designation, and utilization of special areas and for the establishing of guidelines or priorities of uses in each area.

C. Those areas and facilities subject to the jurisdiction of the Offshore Terminal Authority are deemed to be special areas. The environmental



protection plan required by R.S. 34:3113 shall constitute the management guidelines for this special area and shall continue to be administered and enforced by the Offshore Terminal Authority or its successor in accordance with the policies and objectives of the state program.

D. The secretary shall have the authority to set priorities, consistent with this Subpart, for funding available under Section 308 of the Federal Coastal Zone Management Act (PL 92-583 as amended by PL 94-370).

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

F. Notwithstanding any law, order, or regulation to the contrary, the secretary shall prepare a freshwater diversion plan for the state in order to reserve or offset land loss and salt water encroachment in Louisiana's coastal wetlands. As part of this plan the secretary shall prepare specific recommendations as to those locations which are most in need of freshwater diverted from the Mississippi River and other water bodies of the state, and he shall include the projected costs thereof and the order of priority.

G. The secretary shall develop an indexing system whereby those wetland, coastline, and barrier island areas which are undergoing rapid change or are otherwise considered critical shall be identified; and the secretary shall also undertake a pilot program to create one or more artificial barrier islands in order to determine the effectiveness of such islands in controlling shoreline erosion.

H. The governor may, upon recommendation by the secretary and after consultation with the attorney general as to any adverse impact on the coastline, enter into agreements with the United States regarding the construction, maintenance, and operation of projects along the coastline and in the Gulf of Mexico. The agreements may provide that such projects shall not affect the location of the shoreline or boundaries of the state.

LA Rev. Stat. § 49:214.30. Coastal use permits.

A.

(1) No person shall commence a use of state or local concern without first applying for and receiving a coastal use permit. Decisions on coastal use permit applications shall be made by the secretary, except that the local government shall make coastal use permit decisions as to uses of local concern in areas where an approved local program is in effect. Conditions set forth in a coastal use permit shall supersede



any and all variances or exceptions granted by the commissioner of conservation in accordance with R.S. 30:4(E)(1) for activities within the coastal zone as defined by R.S. 49:214.24.

(2) Prior to issuance of a coastal use permit, the secretary shall ensure that the activity for which application is being made is consistent with the state's master plan for integrated coastal protection. No activity which is not consistent with the plan shall be granted a coastal use permit. In addition, any permit granted to repair or replace a pipeline that would impact integrated coastal protection in the state's master or annual plan shall include a requirement that the pipeline owner shall be responsible for the cost to repair or replace such pipeline. The pipeline owner shall be responsible for the performance of any pipeline relocation work to accommodate the construction of any integrated coastal protection. Any incremental costs associated with such relocation work shall be reimbursed to the pipeline owner by the appropriate federal, state, or local governmental agency. As used in this Paragraph, "incremental costs" means the cost of the pipeline relocation required by the appropriate governing authority less the cost that the pipeline operator would have incurred for the maintenance project.

B. Within one hundred twenty days after the effective date of this Subpart, the secretary shall adopt, after notice and public hearing, rules and procedures consistent with this Subpart for both the state coastal management program and approved local programs regarding the form and information requirements for coastal use permit applications, the coastal use permit review process, public notice and public comments, criteria and guidelines for decision making, appeals and emergency activities.

C. The rules promulgated pursuant to this Section shall, among other things, provide that:

(1) Coastal use permit applications shall be submitted to the secretary, except that applications for uses in areas subject to an approved local program may instead be submitted to the local government. Local governments with an approved program to whom applications are submitted shall make the initial determination, subject to review by the secretary with a right of appeal, as to whether the proposed use is of state concern or local concern. Copies of all applications submitted to local governments and the local government's use-type determination shall be transmitted to the secretary within two days of receipt.

(2)

(a) Within ten days of receipt of a coastal use permit application by the secretary, copies of the application shall be distributed to the local government or governments in



whose parish the use is to occur and all appropriate state and local agencies, and public notice shall be given. A public hearing on an application may be held. Concurrently with the filing of the coastal use permit application, a copy of the application shall be distributed by the applicant to the owner or owners of the land on which the proposed coastal use is to occur. The landowner and his address shall be determined by rules of the administrator. The applicant shall make every reasonable effort, which shall include a search of the public records of the parish in which the use is to occur, if necessary, to determine the identity and current address of the owner or owners of the land on which the use is to occur. The application shall not be considered complete unless the applicant attaches thereto a written affidavit of the fact that reasonable efforts have been made to determine the identity and present address of each owner and a list of the names and addresses of the owners to whom the applicant has furnished a copy of the application. If the proposed activity would be located on property owned by more than ten persons, or on property owned jointly in an undivided interest consisting of more than ten persons, the secretary may deem the application complete upon proof that fifty percent of the persons owning or having an undivided interest in the property have been provided with a copy of the application. The secretary may also approve this method of landowner notification in the case where the applicant holds a valid right-of-way, easement, or servitude for conducting the proposed activity on that property or when a government entity proposes to conduct maintenance activities on existing public works projects.

(b) Notwithstanding any other law to the contrary, the secretary shall, after notification by the department to the applicant that the application is complete, grant or deny all applications for all permits, licenses, registrations, variances, or compliance schedules within sixty days. The notification of completeness shall be issued within fourteen days, exclusive of holidays, by the department. If the application is not complete, the department shall notify the applicant in writing of the deficiencies which cause the application not to be complete. If the secretary does not grant the application, the secretary shall provide written reasons for his decision, and copies of the decision shall be provided to all parties. The secretary may delegate the power to grant permits, licenses, registrations, variances, or compliance schedules to an assistant secretary, division administrator, or other designee.



(c) If the secretary does not grant or deny the application within the time period provided for in this Paragraph, the applicant may file a rule as provided for in R.S. 49:978.

(3) The decision to approve, approve with modifications, or otherwise condition approval, or deny the coastal use permit shall be made within thirty days after public notice or within fifteen days after a public hearing, whichever is later. The coastal use permit decision must be consistent with the state program and approved local programs for affected parishes and must represent an appropriate balancing of social, environmental and economic factors. In all instances local government comments shall be given substantial consideration.

(4) The decision to approve, approve with modifications, or otherwise condition approval, or deny the application for a coastal use permit shall be in writing and copies of the decisions shall be sent to all parties.

(5) Public notice of coastal use permit decisions shall be given.

(6) The secretary may adopt rules providing for alternate procedures for the filing of applications, distribution of copies, giving of notices, and public hearings in order to implement the coordinated coastal permitting process established pursuant to R.S. 49:214.33.

(7) Notwithstanding any contrary provisions of law in this Section, the permitting authority may deny without prejudice, or withdraw or place on inactive status, the application for a coastal use permit if the applicant fails to respond within sixty days to any request or inquiry from the permitting authority.

(8) Notwithstanding any contrary provision of law or regulation, a coastal use permit, once granted on private continuing marsh management projects, shall be valid for the life of the project or activity for which the permit is issued, unless the secretary shall thereafter modify, revoke, or suspend the permit. Unless the secretary revokes or suspends the permit, no further permits shall be necessary for activities required to operate or maintain the permitted use.

(9) The secretary shall take into consideration a permit applicant's history of compliance with the provisions of the Louisiana Coastal Resources Program prior to making a determination of whether to approve, approve with modifications or otherwise conditionally approve, or deny the application for a coastal use permit. As used in this Paragraph, "permit applicant" shall mean the specific company, individual, or entity which has made application for the permit. Any use or activity found to not comply with the Louisiana Coastal Resources Program which was conducted by a person or entity or on a property prior to the acquisition of that person, entity, or property



by the permit applicant shall not be considered a part of the permit applicant's history of compliance. The applicant shall be allowed to review and comment on his compliance record as compiled by the secretary. The department shall promulgate, under the Administrative Procedure Act, guidelines for implementation of this Paragraph.

D. The applicant, the secretary, and affected local government or affected federal, state, or local agency, any aggrieved person, or any other person adversely affected by a coastal use permit decision may appeal the coastal use permit decision in accordance with R.S. 49:214.35.

E. The secretary is authorized to adopt rules and procedures for the issuance of general coastal use permits and for the issuance of variances from the normal coastal use permitting requirements. For the purposes of this Subpart, a general coastal use permit is an authorization to prospective users to perform specific uses within prescribed areas of the coastal zone without the necessity for a complete, independent review of each proposed use and allows the shortest time period of review possible. The rules and procedures which may be adopted pursuant to this Section shall provide for expeditious processing of applications for general coastal use permits and may authorize variances from the normal coastal use permit application and review procedures. General coastal use permits and variances from the normal coastal use permitting requirements may not be issued except when the issuance of such general coastal use permits or variances does not impair the fulfillment of the objectives and policies of the Subpart.

F. The secretary shall adopt rules whereby specified types of activities may be carried out under prescribed emergency conditions without the necessity of obtaining a coastal use permit in advance.

G.

(1) The secretary is authorized to establish a reasonable schedule for fees to be charged to the applicant for the processing and evaluation of coastal use permit applications.

(2) The secretary is authorized to increase the fee charged to an applicant for a coastal use permit for a nonresidential coastal use to not more than one hundred dollars per application. In addition, the secretary is authorized to increase the fee charged to an applicant for a coastal use permit for a nonresidential coastal use that involves excavation or filling to not less than twenty-five dollars nor more than five thousand dollars per application, and such fee shall not exceed ten cents per cubic yard of material excavated or filled.

(3) The secretary shall waive fees authorized by this Section for any individual, state agency, or political subdivision deemed by him to be engaged in coastal restoration activity consistent with the plan



as provided in R.S. 49:213.6 and for local public bodies for constructing drainage improvements.

(4) Funds generated from these fees shall be deposited in the Coastal Resources Trust Dedicated Fund Account as provided in R.S. 49:214.40.

H.

(1) In order for the state to fulfill its obligation under the public policy provisions of this Subpart, the secretary shall insure that whenever a proposed use or activity requires the dredging or disposal of five hundred thousand cubic yards or more of any waterbottom or wetland within the coastal zone, the dredged material shall be used for the beneficial purposes of wetland protection, creation, enhancement, or combinations thereof, in accordance with a long term management strategies plan for each existing or proposed channel or canal as approved by the secretary.

(2) Whenever a proposed use or activity requires a coastal use permit for the dredging or disposal of from twenty-five thousand to five hundred thousand cubic yards of any water bottoms or wetland within the coastal zone, the secretary may require the beneficial use of the dredge material for wetland and barrier island protection, creation, enhancement or combinations thereof. Consideration shall include a site specific statement reflecting estimated costs and the availability of a suitable disposal area. Long term management strategy disposal areas shall be utilized when practical. Activities not in the vicinity of long term management strategy disposal areas shall be considered on a case by case basis through the coastal use permit process. A system of mitigation credits shall be initiated to encourage the beneficial use of dredged material by dredge applicants. The secretary shall require the beneficial use of dredge material in circumstances where it is deemed economically feasible with consideration given to the value of established mitigation credits.

(3) When a proposed use or activity involves dredging to construct or maintain a channel or canal greater than one mile in length in the coastal zone and where the secretary determines that failure to maintain and stabilize the banks of such channel or canal will result in direct or indirect loss of wetlands or adverse impacts to wetlands or water bottoms, the secretary shall require that such banks be maintained and stabilized using dredged materials or structural stabilization measures, or both. In areas where the secretary determines that dredged material placement alone is insufficient to maintain and stabilize the banks along all or part of the canal or channel, the use of structural stabilization measures, including but not limited to rock breakwaters, shall also be required. Any dredged material disposal and channel bank



stabilization shall be in accordance with a long term management strategies plan for each existing or proposed channel or canal as approved by the secretary. At a minimum, the plan shall address environmental and economic considerations and emergency situations.

LA Rev. Stat. § 49:214.31. Existing authority of certain state departments and local governments retained.

A. Nothing in this Subpart shall abridge the constitutional authority of any department of state government or any agency or office situated within a department of state government. Nor shall any provision, except as clearly expressed herein, repeal the statutory authority of any department of state government or any agency or office situated in a department of state government.

B. Permits issued pursuant to existing statutory authority of the office of conservation in the Department of Energy and Natural Resources for the location, drilling, exploration, and production of oil, gas, sulphur, or other minerals shall be issued in lieu of coastal use permits, provided that the office of conservation shall coordinate such permitting actions pursuant to R.S. 49:214.32(B) and (D) and shall ensure that all activities so permitted are consistent with the guidelines, the state program, and any affected local program.

C. Permits issued pursuant to existing statutory authority by the Department of Wildlife and Fisheries for the leasing, seeding, cultivation, planting, harvesting or marking of oyster bedding grounds shall be issued in lieu of coastal use permits, provided that the Department of Wildlife and Fisheries shall coordinate such permitting actions pursuant to R.S. 49:214.32(B) and (D) and shall ensure that all activities so permitted are consistent with the guidelines, the state program and any affected local program.

D. The provisions of this Subpart are not intended to abridge the constitutional authority of any local governments, levee boards or other political subdivisions.

LA Rev. Stat. § 49:214.32. Intergovernmental coordination and consistency.

A. Deep water port commissions and deep water port, harbor, and terminal districts, as defined in Article 6, Sections 43 and 44 of the Louisiana Constitution of 1974, shall not be required to obtain coastal use permits. Provided, however, that their activities shall be consistent to the maximum extent practicable with the state program and affected approved local programs.

B. The governor, through the secretary, shall ensure that any activity within or outside the coastal zone that affects any land or water use or natural resources of the coastal zone which is undertaken, conducted, or supported by any governmental body is consistent with the state



program and any affected approved local program having geographical jurisdiction over the action to the maximum extent practicable and, with respect to federal agencies, to the fullest extent allowed under federal law, particularly 16 U.S.C. 1456 and 15 C.F.R. 930.1-930.154 and amendments thereto. The governor, through the secretary, shall also ensure that such governmental body has considered the sustainability of any activity in the coastal zone and has accounted for potential impacts from hurricanes and other natural disasters.

C.

(1) Consistency determinations shall be made by the secretary except that consistency determinations for uses carried out under the secretary's authority shall be made by the governor.

(2) The following schedule of fees shall be charged for the processing and evaluation of consistency determinations required by R.S. 49:214.32 to the person conducting an activity subject to consistency review. A nonrefundable processing fee of three hundred dollars shall accompany each application or request for consistency determination submitted to the Coastal Management Division.

(3) The schedule of fees shall become effective October 1, 1992.

(4) If the appropriate application fees are not included along with the application or request for consistency determination, the application or request shall be considered incomplete, and returned to the applicant.

(5) The following activities are exempted from consistency fees:

(a) The processing and evaluation of any consistency determinations relative to all matters concerning the Oil Spill Prevention and Response Act (R.S. 30:2451 et seq.) and any amendments thereto.

(b) The processing and evaluation of consistency determinations for activities performed by the Louisiana Department of Wildlife and Fisheries on wildlife management areas and refuges maintained or managed by the Department of Wildlife and Fisheries.

(c) The processing and evaluation of consistency determinations for activities performed by the Louisiana Department of Recreation and Tourism on state parks and cultural sites maintained and/or managed by the Louisiana Department of Recreation and Tourism.

(d) The processing and evaluation of consistency determinations for any portions of federally permitted



activities which are also subject to the state coastal use permitting requirement.

(e) The processing and evaluation of consistency determinations for federal loans and grants.

(f) The processing and evaluation of consistency determinations for activities performed by the U.S. Fish and Wildlife Service on refuges maintained and/or managed by the U.S. Fish and Wildlife Service.

(g) The processing and evaluation of consistency determinations for activities performed by the U.S. Park Service in national parks.

(h) The processing and evaluation of consistency determinations for maintenance of existing Outer Continental Shelf mineral facilities, pipelines, and other structures.

(i) The processing and evaluation of consistency determinations for relocation and removal of existing Outer Continental Shelf mineral facilities, pipelines, and other structures when such relocation or removal is required by federal or state statute or regulation.

(6) The monies generated from the collection of consistency determination fees shall be allocated and expended to employ sufficient personnel to process and evaluate consistency determinations in an expeditious manner.

(7) Decisions on consistency determinations shall be made within three months of receipt of the consistency determination by the Coastal Management Division, except as provided by federal regulations at 15 CFR 930.79 and 15 CFR 930.63.

(8) All other procedural and substantive requirements for consistency determinations are to be carried out in accordance with federal law, particularly 16 U.S.C. 1456 and 15 C.F.R. Sections 930.1-930.154, and amendments thereto.

D. Governmental bodies shall fully coordinate their activities affecting the coastal zone with the state program and affected approved local programs. When the secretary finds that governmental actions not subject to the coastal use permitting program may significantly affect land and water resources within the coastal zone, he shall notify the secretary of the Department of Wildlife and Fisheries or his designee and the concerned governmental body carrying out the action. Any governmental body so notified shall coordinate fully with the secretaries or their designees, acting jointly, at the earliest possible stage of the proposed action. The secretaries or their designees, shall make comments to such other agencies in order to assure that such



actions are consistent with the state program and affected local programs. These comments shall, to the maximum extent practicable, be incorporated into the action commented upon.

E. Provided that neither the state nor any local government having an approved local program shall be liable for any damages resulting from activities occurring in connection with the granting of any coastal use permit pursuant to this Section; and provided further that any person undertaking any use within the coastal zone in accordance with the terms and conditions of a coastal use permit issued pursuant to this Section shall be considered in full compliance with the purposes and provisions of this Subpart.

F.

(1) In order for the state to fulfill its obligation under the public policy provisions of this Subpart, the secretary shall insure that whenever a proposed use or activity requires the dredging or disposal of five hundred thousand cubic yards or more of any waterbottom or wetland within the coastal zone, the dredged material shall be used for the beneficial purposes of wetland protection, creation, enhancement, or combinations thereof, in accordance with a long term management strategies plan for each existing or proposed channel as developed by the secretary and adopted pursuant to the provisions of the Louisiana Administrative Procedure Act.

(2) When a proposed use or activity involves dredging to construct or maintain a channel or canal greater than one mile in length in the coastal zone and where the secretary determines that failure to maintain and stabilize the banks of such channel or canal will result in direct or indirect loss of wetlands or adverse impacts to wetlands or waterbottoms, the secretary shall require that such banks be maintained and stabilized using dredged materials or structural stabilization measures, or both. In areas where the secretary determines that dredged material placement alone is insufficient to maintain and stabilize the banks along all or part of the canal or channel, the use of structural stabilization measures, including, but not limited to rock breakwaters, shall also be required. Any dredged material disposal and channel bank stabilization shall be in accordance with a long term management strategies plan for each proposed or existing channel as developed by the secretary and adopted pursuant to the provisions of the Louisiana Administrative Procedure Act.

(3) In developing a long term management strategies plan for each existing or proposed channel as provided in Paragraphs F(1) and (2), the secretary shall consult with and address the concerns of the following:



- (a) The local sponsor of the existing or proposed channel.
- (b) The governing authority for the parish in the coastal zone through which the channel is to be constructed or maintained.
- (c) Representatives of the affected or potentially affected port or waterway facility operators.
- (d) Representatives of the affected or potentially affected waterway user groups.
- (e) Appropriate state and federal agencies.

(4) The plan shall address beneficial use of dredged material disposal for the purposes of wetland protection, creation, enhancement, combinations thereof, and channel bank stabilization, where deemed appropriate by the secretary from a long-range perspective and shall incorporate structural, management, institutional, and economic components for a particular existing or proposed navigation channel. The plan shall include but not be limited to the following:

- (a) A list of projects, programs, or structural channel bank stabilization measures required for the conservation, restoration, or creation of wetlands lost, adversely affected, or with the potential to be lost as a result of existing or proposed navigation channels and the action required of each state or federal agency, port authority, user group, or other responsible party to implement said project, program, or channel bank stabilization measure.
- (b) A schedule, estimated cost, and source or sources of funding for the implementation of each project, program, or channel bank stabilization measure included in the plan for a particular existing or proposed navigation channel.
- (c) Scientific data and other reasons, including but not limited to economic, social, geographic, and biological considerations and parameters as to why each project, program, or structural measure was selected for inclusion. Specifically this will include an explanation as to how each project, program, or channel bank stabilization measure advances the plan's objectives with respect to beneficial use of dredged material disposal for the purposes of wetland protection, creation, enhancement, a combination thereof, and channel bank stabilization, where deemed appropriate by the secretary.
- (d) Provisions which address emergency situations, including but not limited to instances of force majeure, acts of God,



acts of war, and other problems or situations not anticipated in the plan.

(5) Any plan approved by the secretary and adopted in accordance with the Louisiana Administrative Procedure Act shall be consistent with the provisions of R.S. 49:214.27 and 214.32, and the rules, regulations, and guidelines adopted thereunder. Any project, program, or structural channel bank stabilization measures included in an approved and promulgated plan for a particular existing or proposed navigation channel shall be deemed to be consistent with the Louisiana Coastal Resources Program, provided, however, actual construction and implementation is done in accordance with the plan, design memorandum, local cooperation agreement, and local cooperation agreement for a particular existing or proposed navigation channel. Consistency determinations for projects, programs or channel bank stabilization measures implemented or constructed on a channel or canal, or any segment thereof, which has not been made part of any plan approved and adopted pursuant to the provisions herein shall be made on a case-by-case basis in accordance with R.S. 49:214.27 and 214.32 and the rules, regulations and guidelines adopted thereunder. The provisions herein shall be made on a case-by-case basis in accordance with R.S. 49:214.27 and the rules, regulations, and guidelines adopted thereunder.

(6)

(a) Any long term management strategies plan shall have, as a matter of law a term of not more than ten years. At the end of the term, the secretary may, in accordance with applicable statutory law, rules, and regulations:

(i) Extend or reissue a plan for another term of up to ten years.

(ii) Require a modification to incorporate terms and conditions deemed necessary for the wetland protection, conservation, restoration, enhancement, creation, any combination thereof, and channel bank stabilization, or to reflect regulatory changes which have been specified by rule or regulation.

(b) The secretary may not revoke the consistency determination for any provision of a plan approved and adopted pursuant to the provisions herein unless notice is given to the sponsor assuring agency not less than one calendar year prior to the revocation. Upon such notice, the secretary shall consult with and respond in writing to the concerns of the local sponsor of the existing or proposed channel, the governing authority for the parish



in the coastal zone through which the channel is constructed or maintained, representatives of the affected or potentially affected port or waterway facility operators, representatives of the affected waterway user groups, and appropriate state and federal agencies.

(c) At the end of the term of any plan, the provisions of this Subsection shall apply to any request for an extension or renewal. No plan shall be terminated pursuant to this Section if the secretary has taken no action to extend, modify, or revoke the grant of authority. The grant of authority shall remain until such action is taken.

(7) Until a long term management strategies plan is adopted for a particular proposed or existing channel, the secretary shall continue to act in accordance with the provisions of R.S. 49:214.27 and 214.32 and the rules, regulations, and guidelines adopted thereunder in determining whether channel construction, maintenance, and associated dredged material disposal is consistent with Louisiana's Coastal Management Program.

(8)

(a) The secretary may grant variances for consistency determinations for any project, program, or structural channel bank stabilization measure for which no funds are available to construct or implement same from the funding sources identified in a plan approved and adopted in accordance with this Section. Such variances may be granted upon presentation of reasonable evidence that compliance with the provisions of a plan will result in significant economic losses to any lawful business, occupation, or activity without sufficient corresponding benefit or advantage to the people of the state.

(b) In determining under what conditions and to what extent a variance from a plan approved and adopted pursuant to the provisions of the Section is granted, the secretary shall give due consideration to progress which the person, entity, sponsor, assuring agency, or state or federal agency requesting the variance shall have made in complying with and implementing a plan, the efforts made by the person, entity, sponsor, assuring agency, or state or federal agency requesting the variance to acquire adequate funding from the funding sources identified in a particular plan, and the degree and nature of the adverse ecological impacts caused by the failure to implement the project, program, or structural channel bank stabilization measure for which the variance is requested.



(c) The secretary may grant such variance which shall be conditioned to require the inclusion of the particular project, program, or channel bank stabilization measure, for which the variance is granted in the subsequent dredging cycle for that particular channel, and upon the requirement to provide a level of compensatory mitigation in accordance with the provisions of R.S. 49:214.41 for the ecological impacts resulting from the failure to implement the project, program, or structural channel bank stabilization measure for which the variance is granted. Any variance granted pursuant to the provisions of this Section shall be granted for a period of time not to exceed two years, as shall be specified by the secretary. Any variance which may be granted shall be under the condition that the sponsor or assuring agency shall make such periodic reports to the secretary as to the progress made toward acquiring adequate funding. Upon failure of the secretary to take action within sixty days after receipt of a request for a variance, or upon failure of the secretary to enter a final order or determination within sixty days after final argument in any hearing under this Subpart, then for all purposes the person, entity, sponsor, assuring agency, or state or federal agency affected shall be entitled to treat such failure to act as a grant of the variance or of a finding favorable to the party requesting the variance.

LA Rev. Stat. § 49:214.33. Coordinated coastal permitting process.

A. This Section is intended to expedite and streamline the processing of issuing coastal use permits and of obtaining all other concurrently required permits or approvals from other governmental bodies having separate regulatory jurisdiction or authority over uses of the coastal zone without impinging on the regulatory jurisdiction or authority of such other governmental bodies.

B. To implement this intent, within one year of the effective date of this Subpart, the secretary, local governments, and all other relevant governmental bodies having regulatory jurisdiction or authority over uses of the coastal zone shall, in cooperation with one another and under the direction of the governor, establish a coordinated coastal permitting process by means of binding interagency agreements wherein:

(1) One application form serves as the application form for all required permits or approvals from all governmental bodies taking part in the coordinated coastal permitting process.

(2) The application contains sufficient information so that all necessary reviews by all affected governmental bodies can be expeditiously carried out.



(3) A "one window" system for applications is established, with copies of the application being transmitted to all governmental bodies taking part in the coordinated coastal permitting process.

(4) Only one public hearing, if any, need be held on the application. Any public hearing held shall be deemed to serve for all governmental bodies taking part in the coordinated coastal permitting process.

(5) The shortest practicable period for review of applications by all governmental bodies taking part in the coordinated coastal permitting process insofar as the application pertains to the regulatory jurisdiction or authority of such governmental body, is provided for.

(6) The coordinated coastal permitting process shall not affect the powers, duties, or functions of any governmental body, particularly the Department of Wildlife and Fisheries and the office of conservation in the Department of Energy and Natural Resources.

(7) If practicable, a joint permitting process with federal agencies issuing permits shall be established incorporating the coordinated coastal permitting process. Nor shall any other permit review or approval that, in the discretion of the secretary, would be inappropriate for inclusion in a unified permit.

C. Provided that local zoning, subdivision, building, health, and other similar permits, reviewing, or approvals which are not part of an approved local program shall not be included within the unified permitting program; nor shall any other permit review or approval which, in the discretion of the secretary, would be inappropriate for inclusion in a unified permit.

D. Prior to the implementation of the unified coastal permitting program, the secretary is authorized to develop interim interagency agreements with the respective governmental bodies to coordinate permit handling, decision making, and appeal procedures.

E. After such process is established as provided in this Section, the secretary shall administer and implement and may modify such process in accordance with the provisions of this Section.

LA Rev. Stat. § 49:214.34. Activities not requiring a coastal use permit.

A. Whether or not the activity occurs within the geographical boundaries of the coastal zone, the following activities shall not require a coastal use permit:

(1) Activities occurring wholly on lands five feet or more above mean sea level except when the secretary finds, subject to appeal, that the particular activity would have direct and significant impact on coastal waters.



(2) Activities occurring within fast lands except when the secretary finds, subject to appeal, that the particular activity would have direct and significant impacts on coastal waters.

(3) Agricultural, forestry, and aquaculture activities on lands consistently used in the past for such activities; however, alternative oyster culture activities permitted pursuant to R.S. 56:431.2 shall be subject to coastal use permit requirements unless, after June 30, 2015, the secretary determines that these uses are exempt from coastal use permit requirements.

(4) Hunting, fishing, trapping, and the preservation of scenic, historic, and scientific areas and wildlife preserves.

(5) Normal maintenance or repair of existing structures, including but not limited to emergency repairs of damage caused by accident, fire, or the elements.

(6) Uses and activities within the special area established in R.S. 49:214.29(C) which have been permitted by the Offshore Terminal Authority in keeping with its environmental protection plan.

(7) Construction of a residence or camp.

(8) Construction and modification of navigational aids such as channel markers and anchor buoys.

(9) Construction, maintenance, repair, or normal use of any dwelling, apartment complex, hotel, motel, restaurant, service station, garage, repair shop, school, hospital, church, office building, store, amusement park, sign, driveway, sidewalk, parking lot, fence, or utility pole or line, when these activities occur wholly on lands five feet or more above mean sea level or on fast lands except when the secretary finds, subject to appeal, that the particular activity would have direct and significant impacts on coastal waters.

(10) Uses which do not have a significant impact on coastal waters.

B. The secretary shall maintain a map or collection of maps accurately depicting the areas within the coastal zone that have been determined by the secretary to be a fastland or above the five foot contour. This map shall be readily accessible to the public for inspection and self-service comparison to proposed project footprints to aid in an applicant's own determination whether the applicant's activity is subject to the exemption provided in this Section, thus obviating the need to submit an application for a coastal use permit.

C.

(1) The secretary shall adopt rules for the implementation of this



Section and may, by such rules, specify such other activities not requiring a coastal use permit as are consistent with the purposes of this Subpart.

(2) Nothing in this Section shall be construed as otherwise abrogating the lawful authority of agencies and local governments to adopt zoning laws, ordinances, or rules and regulations for those activities within the coastal zone not requiring a coastal use permit and to issue licenses and permits pursuant thereto. Individual specific uses legally commenced or established prior to the effective date of the coastal use permit program shall not require a coastal use permit.

LA Rev. Stat. § 49:214.35. Reconsiderations, judicial review.

A. This Section shall govern the reconsideration and/or judicial review of actions of the secretary under this Subpart, including coastal use permit and local program approval decisions and determinations of state or local concern under R.S. 49:214.30(C)(1) and determinations of direct and significant impact under R.S. 49:214.34.

B. A decision or determination shall be subject to reconsideration by the secretary if a petition for reconsideration is filed in writing with the secretary within ten days following public notice of a final coastal use permit or local program approval decision, or receipt of written notice of a determination made under R.S. 49:214.30(C)(1) or R.S. 49:214.34. The grounds for reconsideration shall be either that:

- (1) The decision or determination is clearly contrary to the law or the evidence before the secretary;
- (2) The petitioner has discovered, since the decision or determination, evidence important to the issues which he could not, with due diligence, have presented to the secretary prior to the decision;
- (3) There is a showing that issues not previously considered, through no fault of the petitioner, ought to be examined in order to properly dispose of the matter; or
- (4) There exist other good grounds for further consideration of the issues and the evidence in the public interest.

C. The petition for reconsideration shall set forth the grounds which justify such action. Nothing in this Section shall prevent the reopening or reconsideration of a decision or determination in accordance with other applicable statutory provisions or at any time on the grounds of fraud, perjured testimony, or fictitious evidence. The reconsideration shall be limited to those grounds upon which it was granted, and the secretary may adopt regulations for the orderly consideration and disposition of reconsideration petitions. The secretary shall render a decision upon the



reconsideration petition within fifteen days of its receipt. If a petition for reconsideration is timely filed, the period within which judicial review must be sought shall run from the final disposition of such petition. The secretary, in the interest of justice, may grant a stay of a decision on a coastal use permit or approval of a local program until the final disposition of a petition for reconsideration.

D. Any person authorized by this Subpart to appeal a coastal use permit decision or any local government aggrieved by a final decision on approval of a local program may seek judicial review of that decision whether or not a petition for reconsideration has been filed under this Section. A preliminary, procedural, or intermediate action by the secretary or a determination of local or state concern under R.S. 49:214.30(C)(1) or of direct and significant impact under R.S. 49:214.34 is immediately reviewable if review of the secretary's final permit decision or action would not provide an adequate remedy or would inflict irreparable injury.

E. Proceedings for review may be instituted by filing a petition in the district court of the parish in which the proposed use is to be situated within thirty days after mailing of notice of the final decision by the secretary or, if a reconsideration is requested, within thirty days after the decision thereon.

F. Judicial review shall otherwise be pursuant to the Louisiana Administrative Procedure Act, provided that all such cases shall be tried with preference and priority. Trial de novo shall be held upon request of any party.

LA Rev. Stat. § 49:214.36. Enforcement; injunction; penalties and fines.

A. The secretary and each local government with an approved program shall initiate a field surveillance program to ensure the proper enforcement of the management program. The secretary may enter into interagency agreements with appropriate agencies to assist in the surveillance, monitoring, and enforcement activities pursuant to this Subpart.

B. The secretary, and each local government with an approved program as to uses under its jurisdiction, shall have the authority to issue cease and desist orders against any person found to be in violation of this Subpart or the rules and regulations issued hereunder.

C. The secretary, and each local government with an approved program as to coastal use permits issued by it, shall have the authority to suspend, revoke, or modify coastal use permits if the user is found to have violated any of the conditions of the coastal use permit.

D. The secretary, the attorney general, an appropriate district attorney, or a local government with an approved program may bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the coastal zone for which a coastal use permit has not been



issued when required or which are not in accordance with the terms and conditions of a coastal use permit.

E. A court may impose civil liability and assess damages; order, where feasible and practical, the payment of the restoration costs; require, where feasible and practical, actual restoration of areas disturbed; or otherwise impose reasonable and proper sanctions for uses conducted within the coastal zone without a coastal use permit where a coastal use permit is required or which are not in accordance with the terms and conditions of a coastal use permit. The court in its discretion may award costs and reasonable attorney's fees to the prevailing party.

F. Any person found to have knowingly and intentionally violated the provisions of this Subpart, any of the rules and regulations issued hereunder, or the terms or conditions of any coastal use permit shall be subject to a fine of not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than ninety days, or both. This penalty shall be in addition to any other costs or penalties assessed pursuant to this Section.

G. Any action pursuant to this Section, whether criminal or civil, must be brought in any parish in which the use or activity is situated. If the use or activity is situated in one or more parishes, then any action may be brought in either of the parishes in which the use or activity is situated.

H. In addition to the other enforcement actions authorized by this Section, whenever the secretary determines a violation of any provision of this Subpart, or any rules and regulations issued hereunder or the terms or conditions of any coastal use permit has occurred, the secretary may assess costs and penalties pursuant to Subsection I.

I. In addition to the other enforcement actions authorized by the provisions of this Section, the secretary may do any or all of the following:

(1) Assess the violator all or a portion of the costs of abatement or mitigation of damages to the coastal zone in accordance with R.S. 49:214.41.

(2) Assess the violator an administrative penalty in accordance with the following administrative penalty system:

(a) The amount of administrative penalty per violation shall be determined by a formula of $\$B(V + P + C + I) = \text{Penalty}$, where B is base assessment, V is habitat value, P is prior knowledge value, C is cooperation value, and I is impact damage value. No penalty shall be less than fifty dollars and the maximum penalty for violations shall be twelve thousand dollars.

(b) Base assessment (B) is the amount of a permit application fee and processing fee if a permit had been



applied for under this Subpart or fifty dollars where no fee would have been charged.

(c) The ecological value (V) shall be assessed as follows:

(i) A value of one-half shall be applied to areas the secretary determines to be of minor value, such as streams, rivers, canals, developed cheniers, bayous, trenasses, or lakes with insignificant public resource value or wetlands of low resource value as a result of historical disturbances or physical alterations that were not violations existing prior to the violation under consideration.

(ii) A value of one shall be applied to areas the secretary determines to be of average value such as sections of streams, rivers, cheniers, canals, bayous, or trenasses of marginal value for rearing or spawning habitat for fish and wildlife populations, marginal wetlands or beaches of marginal wildlife habitat value.

(iii) A value of one and one-half shall be applied to areas the secretary determines to be of major value, such as a significant fish and wildlife spawning area, eagle nesting areas, significant waterfowl rearing habitat, tidal salt, saline, brackish, or intermediate marshes, cheniers, tidal mudflats, freshwater wetlands with high diversity and high public resources value, beaches of significant wildlife habitat value and state scenic rivers and waterways designated under R.S. 56:1840 et seq. or administrative rules adopted thereunder.

(d) The prior knowledge value (P) shall be determined by the secretary as follows:

(i) A value of one-half shall be applied where the secretary determines the person was unaware of this Subpart, as demonstrated by the fact that the person had neither applied for any coastal use permit in the past, nor received correspondence from the Coastal Management Division concerning the commission of a possible violation.

(ii) A value of one shall be applied where the secretary determines the person had previously applied for a coastal use permit or received correspondence from the Coastal Management Division concerning the commission of a possible violation.



(iii) A value of one and one-half shall be applied where the person had previously violated this Subpart.

(e) The cooperation value (C) shall be determined as follows:

(i) A value of one-half shall be applied where the person restores resource damage as requested by the secretary without the need for an enforcement order or court action by the secretary.

(ii) A value of one and one-half shall be applied where the person is not cooperative in restoring resource damage as requested by the secretary and the secretary must issue an enforcement order or obtain a court order to restore the resource.

(f) The impact damage value (I) shall be determined by the secretary as a measure of the extent or size of the ecologically impacted area as follows:

(i) Where the secretary determines the adversely affected area of the violation would naturally restore within one year, and the impact area is less than one acre in size or an impacted waterway, shoreline, or waterfront property is less than one hundred linear feet, a value of one-half shall be applied.

(ii) Where the secretary determines the adversely affected area of the violation would naturally restore within two years, and the impact area is less than one acre in size or the impacted waterway, shoreline, or waterfront property is less than one hundred linear feet, a value of one shall be applied.

(iii) Where the secretary determines that the adversely affected area would exceed the restoration time or the impacted area criteria required in Item (i) or (ii) of this Subparagraph, a value of one and one-half shall be applied.

J. The monies collected by the state under the provisions of this Section shall be deposited as follows:

(1) The monies collected by the secretary for violations relating to use of state concern shall be used for the following purposes only in the proportions stated:

(a) After deducting the costs to reimburse the Department of Energy and Natural Resources for the expenses incurred enforcing the provisions of this Subpart, seventy-five



percent of the monies collected shall be placed in the Coastal Protection and Restoration Fund established in Article VII, Section 10.2 of the Constitution of Louisiana and used for projects that are consistent with Paragraph (O)(2) of this Section.

(b) Twenty-five percent of the monies collected shall be placed in local government mitigation banks established in accordance with R.S. 49:214.41 and the rules and regulations adopted thereunder. If there is no local government mitigation bank for the area in which the adverse impact is located, the monies shall be deposited into a restricted fund administered by the parish governing authority of the parish or parishes in which the adverse impact related to the use is located. These funds shall be used only for projects consistent with Paragraph (O)(2) of this Section within or for the benefit of areas within the geographic borders of that parish.

(2) The monies collected by the secretary for violations relating to a use of local concern shall be placed in local government mitigation banks established in accordance with R.S. 49:214.41 and the rules and regulations adopted thereunder. Each local government's mitigation bank shall be credited one hundred percent of the monies collected for violations relating to a use of local concern occurring within its geographic borders, except that for violations occurring within the geographic borders of two or more local governments, the monies shall be divided on a pro rata basis and deposited accordingly in the local government's mitigation banks. In the event there is no local government mitigation bank in the parish in which the adverse impact is located, the monies shall be deposited into a restricted fund administered by the parish governing authority of the parish or parishes where the adverse impact related to the use is located and shall be used only for mitigation projects within the geographic borders of that local government that are consistent with Paragraph (O)(2) of this Section.

K. In determining whether to assess, pursuant to Subsection I of this Section, costs or penalties, and the amounts of such assessments, the secretary shall consider the following factors:

- (1) The monetary benefits realized by the violator due to the noncompliance.
- (2) The history of previous violations or repeated noncompliance for the last five years.
- (3) The nature and gravity of the violation, including the adverse impact on the coastal zone.



(4) The degree of culpability, recalcitrance, defiance, or indifference of the violator to the laws, regulations, or orders of the secretary or regulations of the local government.

(5) The cost to the department or state of bringing and prosecuting an enforcement action against the violator.

(6) Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by his noncompliance or violation.

L. No penalties or costs shall be assessed without the person charged being given notice and an opportunity for an adjudicatory hearing, pursuant to the Administrative Procedure Act. The secretary shall appoint an independent hearings officer. The person charged may waive the adjudicatory hearing upon payment of the amount demanded by the secretary, and will be liable for all costs associated with the adjudicatory hearing.

M. Nothing in this Section, shall prohibit any local political subdivision, without a local coastal use permit program approved as provided for in R.S. 49:214.30 from enforcing any ordinance or regulation relating to wetlands protection or restoration.

N.

(1) In addition to the other enforcement actions authorized by the provisions of this Section, for each incident resulting in an administrative penalty being assessed, the secretary shall issue an after-the-fact coastal use permit or permit modification specifying terms and conditions that must be adhered to for the unauthorized activity to remain in place. In determining the terms and conditions to be placed on the after-the-fact permit, the secretary shall consider the following factors:

(a) The degree to which the activity complies, or fails to comply, with the coastal use guidelines.

(b) The need for compensatory mitigation to be carried out when the activity altered wetlands of the coastal zone.

(c) The need for partial restoration of the site if the coastal use could be carried out with lesser impact to coastal waters or wetlands.

(d) The need for restoration of the site upon abandonment or completion of the coastal use.

(2) Prior to issuing a final after-the-fact permit, the secretary shall provide to the person conducting the activity and to the owner of the property on which the activity occurred, a draft after-the-fact



coastal use permit. The secretary shall also cause the draft after-the-fact coastal use permit to be published one time in the official state journal and allow the public time to offer comments on the proposed after-the-fact coastal use permit to the secretary. All comments must be received by the secretary within fifteen calendar days following the date of publication in the state journal. The secretary shall fully consider all comments received and issue a final after-the-fact coastal use permit five days following the end of the public comment period.

O.

(1) Except as provided in this Subpart, no state or local governmental entity shall have, nor may pursue, any right or cause of action arising from any activity subject to permitting under R.S. 49:214.21 et seq., 33 U.S.C. 1344 or 33 U.S.C. 408 in the coastal area as defined by R.S. 49:214.2, or arising from or related to any use as defined by R.S. 49:214.23, regardless of the date such use or activity occurred.

(2) Any monies received by any state or local governmental entity arising from or related to a state or federal permit issued pursuant to R.S. 49:214.21 et seq., 33 U.S.C. 1344, or 33 U.S.C. 408, a violation thereof, or enforcement thereof, or for damages or other relief arising from or related to any of the foregoing, or for damages or other relief arising from or related to any use as defined by R.S. 49:214.23, shall be used for integrated coastal protection, including coastal restoration, hurricane protection, and improving the resiliency of the coastal area.

(3) Nothing in this Section shall constitute a waiver of sovereign immunity under the Eleventh Amendment of the Constitution of the United States of America.

(4) Nothing in this Section shall prevent or preclude any person or any state or local governmental entity from enforcing contractual rights or from pursuing any administrative remedy otherwise authorized by law arising from or related to a state or federal permit issued in the coastal area pursuant to R.S. 49:214.21 et seq., 33 U.S.C. 1344 or 33 U.S.C. 408.

(5) Nothing in this Section shall alter the rights of any governmental entity, except a local or regional flood protection authority, for claims related to sixteenth section school lands or claims for damage to property owned or leased by such governmental entity.

LA Rev. Stat. § 49:214.37. Approval of rules, regulations, or guidelines.

Any rule, regulation, or guideline shall be proposed or adopted pursuant to the rulemaking procedures set forth in the Administrative Procedure Act and shall be subject to approval by the House Committee on Natural Resources and Environment and Senate Committee on Natural Resources. Such approval shall



be presumed unless either committee submits objections in writing within fifteen days after receipt of the proposed rule, regulation, or guideline, provided that such written objections shall be subject to override by the governor within five days after receipt of the objections by the governor.

LA Rev. Stat. § 49:214.38. Effect on titles.

A. Nothing in this Subpart shall be construed as affecting the status of the title of the state or other governmental body to real rights in lands or water bottoms.

B. Except as may be otherwise authorized by law, the involuntary acquisition, directly or indirectly, of privately owned property is not necessary to achieve the intents and purposes of this Subpart, and no rule, regulation, ordinance, order, or standard, the purpose or application of which is to effect an involuntary acquisition or taking of such property, shall be adopted, enacted, or implemented pursuant to the provisions of this Subpart.

LA Rev. Stat. § 49:214.39. Effective date.

This Subpart shall become effective on January 1, 1979, except that the coastal use permit program established pursuant to R.S. 49:214.30 shall not commence until thirty days after the adoption of guidelines pursuant to R.S. 49:214.27.

LA Rev. Stat. § 49:214.40. Coastal resources trust dedicated fund account.

A.

(1) Subject to the exceptions contained in Article VII, Section 9(A) of the Constitution of Louisiana, all funds collected by the Louisiana coastal resources program from processing and evaluation of coastal use permit applications and consistency determinations, from any federal outercontinental shelf revenue sharing program, and from any other sources, shall be paid into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall, prior to placing such remaining funds in the state general fund, pay into a special statutorily dedicated fund account, which is hereby created in the state treasury and designated as the Coastal Resources Trust Dedicated Fund Account, hereafter referred to in this Section as the "trust account", an amount equal to the total amount of funds paid into the treasury by the Louisiana coastal resources program.

(3) The monies in the trust account shall be invested by the state treasurer in the same manner as monies in the state general fund.



The monies in the trust account shall be used solely for the programs and purposes and in the amounts appropriated each year to the Louisiana coastal resources program by the legislature. Monies deposited into the trust account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

B. The Louisiana coastal resources program shall keep a set of books showing from whom every dollar is received and for what purpose and to whom every dollar is paid and for what purpose. It also shall keep in its file vouchers or receipts for all moneys paid out.

C. Any surplus funds remaining to the credit of the trust account on July 1 of each year commencing with the Fiscal Year 1983-1984, after all appropriations of the preceding fiscal year have been paid, and all interest earned on money from the trust account shall remain to the credit of the trust account for expenditure from year to year solely by the Louisiana coastal resources program or any uses as provided for in the federal outercontinental shelf revenue sharing legislation in accordance with appropriation made by the legislature for the purposes and functions of said program, and no part thereof shall revert to the state general fund. This provision shall not be construed to prohibit the appropriation of funds out of the state general fund to the commission.

LA Rev. Stat. § 49:214.41. Mitigation of coastal wetlands losses.

A. As used in this Section, the following terms shall have the meaning ascribed to them below:

- (1) "Compensatory mitigation" means replacement, substitution, enhancement, or protection of ecological values to offset anticipated losses of those values caused by a permitted activity. Compensatory mitigation may also include construction or implementation of an integrated coastal protection project consistent with the state's master plan for coastal protection and restoration within the same watershed as the permitted activity.
- (2) "Ecological value" means the ability of an area to support vegetation and fish and wildlife populations.
- (3) "Mitigation" means all actions taken by a permittee to avoid, minimize, restore, and compensate for ecological values lost due to a permitted activity.
- (4) "Overriding public interest" means that the public interest benefits of a given activity clearly outweigh the public interest benefits of compensating for wetland values lost as a result of the



activity, as in the case of certain mineral extraction, production and transportation activities or construction of flood protection facilities critical for protection of existing infrastructure.

(5) "Permit" means a coastal use permit.

(6) "Permitted activity" means any activity authorized by a coastal use permit or any activity for which the secretary may require a consistency determination pursuant to R.S. 49:214.32.

(7) "Wetlands" means the same as defined in R.S. 49:214.2.

B. The secretary shall adopt regulations to require mitigation. The regulations adopted pursuant to the authority of this Section shall require consideration of all relevant factors in determining the extent of mitigation, including societal and economic value of the proposed activity, ecological values impacted by the proposed activity, and availability of methods for avoiding or minimizing the impacts associated with the proposed activity and for restoring the site impacted by the proposed activity. The regulations adopted pursuant to this Subsection shall require that the secretary consult with the Coastal Protection and Restoration Authority in the determination of the ecological values impacted by an activity proposed in the coastal area that is contained in the state's master plan for integrated coastal restoration and the methods for avoiding or minimizing adverse impacts associated with the proposed coastal master plan activity.

C. Compensatory mitigation, including construction or implementation of an integrated coastal protection project consistent with the state's master plan for coastal protection and restoration within the same watershed as the permitted activity, at a level sufficient to replace or to substitute for the ecological value of the wetlands lost as a result of each permitted activity, shall be required, unless the permittee has satisfactorily demonstrated to the secretary that the required mitigation would render impracticable an activity proposed to be permitted and that such activity has a clearly overriding public interest. In such an instance, provided that the secretary has decided to issue the permit, the secretary shall grant a variance to this compensatory mitigation requirement after giving due public notice. The secretary shall also provide a statement of finding as to the reasons for granting such variance.

D. The secretary shall adopt regulations for evaluating ecological values and for establishing and administering a mitigation credit banking system for compensating the loss of those values, as provided for by this Section. The regulations shall, at a minimum, provide for:

(1) Criteria under which mitigation credits may be earned.

(2) Geographical limitations for the application of mitigation bank credits.



- (3) Criteria for the use, banking, or sale of banked credits.
- (4) The approval by the secretary for the earning, using, banking, or selling of mitigation bank credits.
- (5) Requirements for the maintenance and submission by the secretary of records concerning ecological value losses, and credit and debit accounts for each mitigation bank.

E. The owner of the land on which a permitted activity is to occur shall have the option of requiring on-site or off-site compensatory mitigation on his property located in any jurisdictional area of the coastal zone or any area included in the Louisiana Coastal Wetlands Conservation Plan, notwithstanding any geographical limitation otherwise required by the regulations adopted by the secretary, provided that the secretary determines that the proposed mitigation is acceptable and sufficient.

F. The secretary may adopt regulations establishing procedures for defining and delineating proposed "special significance areas" which may include areas of particular ecological uniqueness or vulnerability, or areas which have special ecological values or productivity. The procedures established by the secretary shall provide as follows:

- (1) Upon determining that the unique or special resources in such area are susceptible to loss as a result of future activities in such area, the secretary may, in accordance with the provisions of R.S. 49:961(A), designate a special significance area, which area shall in no event exceed two thousand acres. The designation of the area as one of special significance shall expire on the first day of July of the year following the designation and the area, or any part thereof, shall not be subject to redesignation as such except by the legislature as set forth below.
- (2) The secretary may propose to the legislature and thereafter the legislature may, by concurrent resolution, delineate special significance areas upon finding that an area is of particular ecological uniqueness or vulnerability or has special ecological values or productivity, which areas shall in no event exceed two thousand acres each.
- (3) Upon designation of a special significance area, the regulations adopted by the secretary shall require that a permittee, in order to receive a permit to conduct an activity having a direct and significant adverse impact on unique or special resources of such area, must demonstrate that the public interest benefits of the proposed activity clearly outweigh the public interest benefits of preserving the unique or special ecological values of the area and must, at a minimum, provide full compensatory mitigation for ecological value losses associated with the permitted activity.



G. Notwithstanding any other provision of this Section to the contrary, in no event shall any regulation adopted by the secretary require compensatory mitigation for any use or activity which the secretary determines is primarily designed, over the life of the project, to provide a net gain in ecological values by replacing, substituting, enhancing, or protecting wetlands, including privately funded marsh management projects or plans.

LA Rev. Stat. § 49:214.42. Coast mitigation account.

A. Subject to the exceptions contained in Article VII, Section 9(A) of the Constitution of Louisiana, all funds received which are to be used for "compensatory mitigation" which is defined as the replacement, substitution, enhancement, or protection of ecological values to offset anticipated losses of ecological values caused by a permitted activity shall be paid into the state treasury and shall be credited to the Bond Security and Redemption Fund.

B. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall, prior to placing such remaining funds in the state general fund, pay into a special account, which is hereby created in the state treasury and designated as the Coastal Mitigation Account in the Wetlands Conservation and Restoration Fund, an amount equal to the total amount of funds paid into the treasury in lieu of compensatory mitigation. The monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund.

C.

(1) The monies in the Coastal Mitigation Account may be used to develop and implement projects in which permittees may pool funds, resources, and activities sufficient for the compensatory mitigation required of each participating permittee.

(2) The secretary may, when appropriate, use the monies in the Coastal Mitigation Account to fund, in whole or in part, wetland restoration projects developed or implemented by the department of a parish with an approved local coastal program.

D. The department may accept payment to the Coastal Mitigation Account in lieu of compensatory mitigation only when a permittee is unable to provide mitigation through an appropriate individual project or through an appropriate mitigation bank or area located within the Louisiana Coastal Zone or Louisiana Coastal Wetlands Conservation Plan area. The determination of appropriate individual mitigation projects and mitigation banks or areas shall be made in accordance with regulations promulgated by the department pursuant to R.S. 49:214.41. The secretary shall ensure that any fees collected in lieu of



compensatory mitigation are adequate to fully offset the cost of restoring the habitat value lost.

E. An amount equal to funds collected by the department from the payments made in lieu of compensatory mitigation shall be paid into the Coastal Mitigation Account. The department may further accept funds from public or private sources as authorized by law, including grants and donations, to carry out the provisions of this Section. An amount equal to all funds accepted under this provision of this Section shall be paid into the Coastal Mitigation Account.

F. The Office of Coastal Restoration and Management shall keep a set of books showing from whom every dollar is received and for what purpose, and to whom every dollar is paid and for what purpose.

G. Any surplus funds in the Coastal Mitigation Account on July first of each year shall remain to the credit of the account and no part thereof shall revert to the state general fund.

