

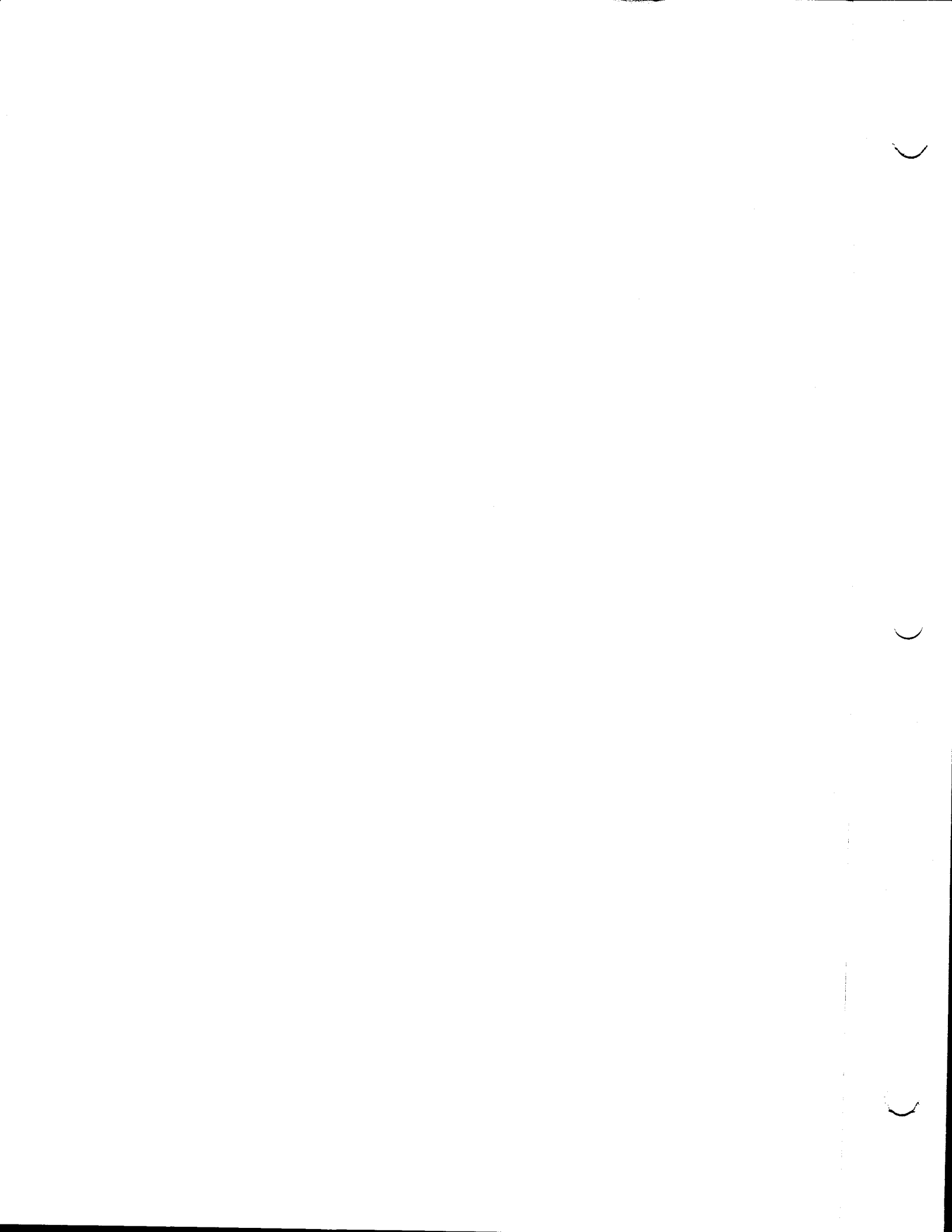


4TH PRIORITY PROJECT LIST REPORT (APPENDICES)

PREPARED BY:

**LOUISIANA COASTAL WETLANDS CONSERVATION AND RESTORATION
TASK FORCE**

December 1994



Coastal Wetlands Planning, Protection and Restoration Act

4th Priority Project List Report

Appendix A

Summary and Complete Text of the CWPPRA



COASTAL WETLANDS PLANNING, PROTECTION, & RESTORATION ACT
(Public Law 101-646, Title III)

SECTION 303. Priority Louisiana Coastal Wetlands Restoration Projects.

- Section 303a. Priority Project List.
 - NLT 13 Jan 91, Sec. of the Army (Secretary) will convene a Task Force.

•Secretary	•Secretary, Interior
•Administrator, EPA	•Secretary, Agriculture
•Governor, Louisiana	•Secretary, Commerce
 - NLT 28 Nov 91, Task Force will prepare and transmit to Congress a Priority List of wetland restoration projects based on cost effectiveness and wetland quality.
 - Priority List is revised and submitted annually as part of President's budget.
- Section 303b. Federal and State Project Planning.
 - NLT 28 Nov 93, Task Force will prepare a comprehensive coastal wetlands Restoration Plan for Louisiana.
 - Restoration Plan will consist of a list of wetland projects, ranked by cost effectiveness and wetland quality.
 - Completed Restoration Plan will become Priority List.
 - Secretary will ensure that navigation and flood control projects are consistent with the purpose of the Restoration Plan.
 - Upon submission of the Restoration Plan to Congress, the Task Force will conduct a scientific evaluation of the completed wetland restoration projects every 3 years and report the findings to Congress.

SECTION 304. Louisiana Coastal Wetlands Conservation Planning.

- Secretary; Administrator, EPA; and Director, USFWS will:
 - Sign an agreement with the Governor specifying how Louisiana will develop and implement the Conservation Plan.
 - Approve the Conservation Plan.
 - Provide Congress with periodic status reports on Plan implementation.
- NLT 3 years after agreement is signed, Louisiana will develop a Wetland Conservation Plan to achieve no net loss of wetlands resulting from development.

SECTION 305. National Coastal Wetlands Conservation Grants.

- Director, USFWS, will make matching grants to any coastal state to implement Wetland Conservation Projects (projects to acquire, restore, manage, and enhance real property interest in coastal lands and waters).
- Cost sharing is 50% Federal / 50% State *

SECTION 306. Distribution of Appropriations.

- 70% of annual appropriations not to exceed (NTE) \$70 million used as follows:
 - NTE \$15 million to fund Task Force completion of Priority List and Restoration Plan -- Secretary disburses funds.
 - NTE \$10 million to fund 75% of Louisiana's cost to complete Conservation Plan -- Administrator disburses funds.
 - Balance to fund wetland restoration projects at 75% Federal/ 25% Louisiana ** -- Secretary disburses funds;
- 15% of annual appropriations, NTE \$15 million for Wetland Conservation Grants - Director, USFWS disburses funds.
- 15% of annual appropriations, NTE \$15 million for projects authorized by the North American Wetlands Conservation Act - Secretary, Interior disburses funds.

SECTION 307. Additional Authority for the Corps of Engineers.

- Section 307a. Secretary authorized to:
 - Carry out projects to protect, restore, and enhance wetlands and aquatic/coastal ecosystems.
- Section 307b. Secretary authorized and directed to study feasibility of modifying the MR&T to increase flows and sediment to the Atchafalaya River for land building and wetland nourishment.

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- * 25% if the state has dedicated trust fund from which principal is not spent.
 - ** 15% when Louisiana's Conservation Plan is approved.



activities, where appropriate, that would contribute to the restoration or improvement of one or more fish stocks of the Great Lakes Basin; and

"(2) activities undertaken to accomplish the goals stated in section 2006.

16 USC 941g.

SEC. 2009. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to the Director—

"(1) for conducting a study under section 2005 not more than \$4,000,000 for each of fiscal years 1991 through 1994;

"(2) to establish and operate the Great Lakes Coordination Office under section 2008(a) and Upper Great Lakes Fishery Resources Offices under section 2008(c), not more than \$4,000,000 for each of fiscal years 1991 through 1995; and

"(3) to establish and operate the Lower Great Lakes Fishery Resources Offices under section 2008(b), not more than \$2,000,000 for each of fiscal years 1991 through 1995.

"(b) There are authorized to be appropriated to the Secretary to carry out this Act, not more than \$1,500,000 for each of fiscal years 1991 through 1995."

Coastal
Wetlands
Planning,
Protection and
Restoration Act.
16 USC 3951
note.

TITLE III—WETLANDS**SEC. 301. SHORT TITLE.**

This title may be cited as the "Coastal Wetlands Planning, Protection and Restoration Act".

16 USC 3951.

SEC. 302. DEFINITIONS.

As used in this title, the term—

(1) "Secretary" means the Secretary of the Army;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;

(4) "State" means the State of Louisiana;

(5) "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes; for the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa;

(6) "coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this title or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individ-

ual phases, portions, or components of projects and operation, maintenance and rehabilitation of completed projects; the primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits;

(7) "coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon;

(8) "Governor" means the Governor of Louisiana;

(9) "Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Commerce; and

(10) "Director" means the Director of the United States Fish and Wildlife Service.

SEC. 303. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS. 16 USC 3952

(a) PRIORITY PROJECT LIST.—

(1) **PREPARATION OF LIST.—**Within forty-five days after the date of enactment of this title, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) **TASK FORCE PROCEDURES.—**The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to the Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 304 of this Act.

(3) **TRANSMITTAL OF LIST.—**No later than one year after the date of enactment of this title, the Secretary shall transmit to the Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter,

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the list shall be updated annually by the Task Force members and transmitted by the Secretary to the Congress as part of the President's annual budget submission. Annual transmittals of the list to the Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure to carry out this title.

(4) LIST OF CONTENTS.—

(A) AREA IDENTIFICATION; PROJECT DESCRIPTION.—The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of the lead Task Force member to undertake each proposed coastal wetlands restoration project and the responsibilities of each other participating Task Force member, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) PRE-PLAN.—Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a five-year period commencing on the date the project is placed on the list.

(C) Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) FUNDING.—The Secretary shall, with the funds made available in accordance with section 306 of this title, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) FEDERAL AND STATE PROJECT PLANNING.—

(1) PLAN PREPARATION.—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing the long-term conservation of coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within three years from the date of enactment of this title.

(2) PURPOSE OF THE PLAN.—The purpose of the restoration plan is to develop a comprehensive approach to restore and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration

projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) **INTEGRATION OF EXISTING PLANS.**—In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary of the Army and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the State of Louisiana's Wetlands Conservation and Restoration Task Force.

(4) **ELEMENTS OF THE PLAN.**—The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B) and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations;

(D) a listing of such coastal wetlands restoration projects, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) **PLAN MODIFICATION.**—The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) **PLAN SUBMISSION.**—Upon completion of the restoration plan, the Secretary shall submit the plan to the Congress. The restoration plan shall become effective ninety days after the date of its submission to the Congress.

(7) **PLAN EVALUATION.**—Not less than three years after the completion and submission of the restoration plan required by this subsection and at least every three years thereafter, the Task Force shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in crea-

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ting, restoring, protecting and enhancing coastal wetlands in Louisiana.

(c) **COASTAL WETLANDS RESTORATION PROJECT BENEFITS.**—Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) **CONSISTENCY.**—(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(e) **FUNDING OF WETLANDS RESTORATION PROJECTS.**—The Secretary shall, with the funds made available in accordance with this title, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section. The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations.

(f) **COST-SHARING.**—

(1) **FEDERAL SHARE.**—Amounts made available in accordance with section 306 of this title to carry out coastal wetlands restoration projects under this title shall provide 75 percent of the cost of such projects.

(2) **FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.**—Notwithstanding the previous paragraph, if the State develops a Coastal Wetlands Conservation Plan pursuant to this title, and such conservation plan is approved pursuant to section 304 of this title, amounts made available in accordance with section 306 of this title for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary, the Director, and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to this title, amounts made available in accordance with section 306 of this title for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project: *Provided, however,* that such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary, the Director, and Administrator, and the State has been given ninety days from such notice or hearing to take corrective action.

(3) **FORM OF STATE SHARE.**—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of

the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way, or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

SEC. 304. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING.

16 USC 3953.

(a) DEVELOPMENT OF CONSERVATION PLAN.—

(1) **AGREEMENT.**—The Secretary, the Director, and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) TERMS OF AGREEMENT.—

(A) Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary, the Director, and the Administrator shall promptly enter into an agreement (hereafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than three years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary, the Director, and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) GRANTS AND ASSISTANCE.—Upon the date of signing the agreement—

(A) the Administrator shall, in consultation with the Director, with the funds made available in accordance with section 306 of this title, make grants during the development of the conservation plan to assist the designated State agency in developing such plan. Such grants shall not exceed 75 percent of the cost of developing the plan; and

(B) the Secretary, the Director, and the Administrator shall provide technical assistance to the State to assist it in the development of the plan.

(b) CONSERVATION PLAN GOAL.—If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan.

exclusive of any wetlands gains achieved through implementation of the preceding section of this title.

(c) **ELEMENTS OF CONSERVATION PLAN.**—The conservation plan authorized by this section shall include—

- (1) identification of the entire coastal area in the State that contains coastal wetlands;
- (2) designation of a single State agency with the responsibility for implementing and enforcing the plan;
- (3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of the preceding section of this title;
- (4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;
- (5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the plan;
- (6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;
- (7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and
- (8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

(d) **APPROVAL OF CONSERVATION PLAN.**—

(1) **IN GENERAL.**—If the Governor submits a conservation plan to the Secretary, the Director, and the Administrator for their approval, the Secretary, the Director, and the Administrator shall, within one hundred and eighty days following receipt of such plan, approve or disapprove it.

(2) **APPROVAL CRITERIA.**—The Secretary, the Director, and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

- (A) the State has adequate authority to fully implement all provisions of such a plan;
- (B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and
- (C) the plan was developed in accordance with terms of the agreement set forth in subsection (a) of this section.

(e) **MODIFICATION OF CONSERVATION PLAN.**—

(1) **NONCOMPLIANCE.**—If the Secretary, the Director, and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) **RECONSIDERATION.**—If the Governor submits a modified conservation plan to the Secretary, the Director, and the Administrator for their reconsideration, the Secretary, the