

MR. SEWELL

**COASTAL WETLANDS PLANNING,
PROTECTION, AND RESTORATION ACT**

TASK FORCE MEETING

AUGUST 12, 1991

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

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COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

AGENDA

- I. Introductions**
 - A. Task Force members or alternates.
 - B. Other attendees.
 - C. Opening remarks by Task Force members.
- II. Adoption of Minutes from the June 17, 1991 Meeting**
- III. Technical Committee Recommendations**
 - A. Task Force Operating Procedures Outline.
 - B. Implementation Plan for Section 303.
 - C. Contract Services Requirements.
 - D. Priority Project List Contents Policy.
 - E. NEPA Compliance Requirements.
 - F. Coastal Wetlands Restoration Project Area Map.
 - G. Definition of Coastal Wetlands.
- IV. Priority Project List Deadline**
- V. Status of the Candidate Project Fact Sheets**
- VI. Status of Fiscal Matters**
 - A. Programming of FY 1992 funds.
 - B. Distribution of FY 1992 funds.
- VII. Additional Agenda Items**
- VIII. Date/Location of the Next Task Force Meeting**
- IX. Request for Written Questions from the Public**

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEMBERS

<u>Task Force Member</u>	<u>Member's Representative</u>
Governor, State of Louisiana	Mr. David Chambers Executive Assistant for Coastal Activities Office of the Governor P. O. Box 94004 Baton Rouge, LA 70804-9004 (504) 342-6493 ; FAX: (504) 342-3522
Administrator, EPA	Mr. Russell F. Rhoades Division Director Environmental Services Division Region VI Environmental Protection Agency 1445 Ross Ave. Dallas, Texas 75202 (214) 655-2210 ; FAX: (214) 655-7446
Secretary, Department of the Interior	Mr. S. Scott Sewell Director Minerals Management Service U.S. Department of the Interior Mail Stop: 4230 M.I.B. 1849 C Street, NW, Office #4210 Washington, D.C. 20240 (202) 208-3500 ; FAX: (202) 208-4684

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEMBERS (cont.)

<u>Task Force Member</u>	<u>Member's Representative</u>
Secretary, Department of Agriculture	Mr. Horace J. Austin State Conservationist Soil Conservation Service 3737 Government Street Alexandria, Louisiana 71302 (318) 473-7751 ; FAX: (318) 473-7771
Secretary, Department of Commerce	Dr. Clement Lewsey Gulf Regional Manager Coastal Programs Division Office of Ocean and Coastal Resource Management U.S. Department of Commerce Room 721; Universal Bldg. 1825 Connecticut Avenue, N.W. Washington, D.C. 20235 (202) 673-5138 ; FAX: (202) 673-5329
Secretary of the Army (Chairman)	Col. Michael Diffley District Engineer U.S. Army Engineer District, N.O. P.O. Box 60267 New Orleans, LA 70160-0267 (504) 862-2204 ; FAX: (504) 862-2492

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

IMPLEMENTATION PLAN

TASK FORCE PROCEDURES

I. **Task Force Meetings and Attendance**

A. Scheduling/Location

The Task Force will hold regular meetings quarterly, or more often if necessary to carry out its responsibilities. When possible, regular meetings will be scheduled as to time and location prior to the adjournment of any preceding regular meeting.

Special meetings may be called upon request and with the concurrence of a majority of the Task Force members, in which case, the Chairperson will schedule a meeting as soon as possible.

Emergency meetings may be called upon request and with the unanimous concurrence of all members of the Task Force at the call of the Chairperson. When deemed necessary by the Chairperson, such meetings can be held via telephone conference call provided that a record of the meeting is made and that any actions taken are affirmed at the next regular or special meeting.

B. Delegation of Attendance

The appointed members of the Task Force may delegate authority to participate and actively vote on the Task Force to a substitute of their choice. Notice of such delegation shall be provided in writing to the Task Force Chairperson prior to the opening of the meeting.

C. Staff Participation

Each member of the Task Force may bring colleagues, staff or other assistants/advisors to the meetings. These individuals may participate fully in the meeting discussions but will not be allowed to vote.

D. Public Participation (see Public Involvement Program)

All Task Force meetings will be open to the public. Interested parties may submit written questions or comments that will be addressed at the next regular meeting.

III. Miscellaneous

A. Liability Disclaimer

To the extent permitted by the law of the State of Louisiana and Federal regulations, neither the Task Force nor any of its members individually shall be liable for the negligent acts or omissions of an employee, agent or representative selected with reasonable care, nor for anything the Task Force may do or refrain from doing in good faith, including the following: errors in judgement, acts done or committed on advice of counsel, or mistakes of fact or law.

B. Conflict of Interest

No member of the Task Force (or designated representative) shall participate in any decision or vote which would constitute a conflict of interest under Federal or State law. Any potential conflicts of interest must clearly be stated by the member prior to any discussion on the agenda item.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

June 17, 1991

MINUTES

I. INTRODUCTION

Colonel Richard V. Gorski, representing the Secretary of the Army, convened the second meeting of the Louisiana Coastal Wetlands Conservation and Restoration Task Force at 10:00 a.m., June 17, 1991, in the District Assembly Room of the New Orleans District, U.S. Army Corps of Engineers. The Agenda is attached as Enclosure 1. The Task Force was created by the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) which was signed into law (PL 101-646, Title III) by President Bush on November 29, 1990.

II. ATTENDEES

The Attendance Records for the Task Force meeting are attached as Enclosure 2. Listed below are the six Task Force members, all of whom were in attendance, with the exception of Mr. Chambers, who was represented by Mr. William Savant.

Colonel Gorski introduced Colonel Michael Diffley who will assume command of the New Orleans District on June 19, 1991. Col. Diffley will assume the chairmanship of the Task Force on the same date and will preside over future Task Force meetings.

Mr. David Chambers, State of Louisiana
Mr. Russell Rhoades, Environmental Protection Agency
Mr. S. Scott Sewell, U.S. Department of the Interior
Mr. Horace Austin, U.S. Department of Agriculture
Dr. Clement Lewsey, U.S. Department of Commerce
Col. Richard Gorski, U.S. Department of the Army, Chairman

III. APPROVAL OF MINUTES FROM PREVIOUS MEETING

The minutes from the first Task Force meeting, held on January 11, 1991, were unanimously approved by the Task Force members. [1/260] *

IV. TASK FORCE DECISIONS

The Task Force voted and passed the following motions:

- A. Approve the Technical Committee interim administrative procedures (Enclosure 3). The Technical Committee will operate under these procedures until additional procedures are developed and adopted by the Technical Committee and approved by the Task Force. The Task Force members unanimously approved this motion. [1/410]
- B. Direct the Technical Committee to establish a Planning and Evaluation Work Group which will be staffed by a representative from each Task Force member. The Work Group will develop draft operating procedures for the approval of the Task Force at the next Task Force meeting. The Task Force members unanimously approved this motion. [1/490]
- C. Remand the definition of "Major Federal Action" to the Technical Committee for reconsideration and revision. The Task Force will address this revised definition at the next Task Force meeting. The Task Force members unanimously approved this motion. [1/670]
- D. Approve the lead Task Force member selection criteria listed below. A Task Force member who meets one or more of these criteria would be eligible for selection by the Task Force. The State of Louisiana is not eligible to serve as a lead Task Force member. The Task Force members unanimously approved this motion. [2/80]
 - 1. Task Force member has jurisdiction by Federal law.
 - 2. Task Force member has existing real estate interest in the project lands.
 - 3. Task Force member has previous experience implementing such a project.
 - 4. Task Force member has an interest in and a capability to implement such a project.
- E. Any project whose estimated project cost increases by more than 25 percent will be referred back to the Technical Committee for reassessment of its priority status. The estimated project cost is defined as the cost of the project at the time of submittal of the project to Congress as part of the annual list. The 25 percent limit will not include price-level increases. The Task Force members unanimously approved this motion. [2/250]

- F. Direct the Technical Committee to prepare a draft FY 1992 budget for implementation of Section 303 of the CWPPRA. The draft budget will be presented to the Task Force for approval at its September, 1991 meeting. The Task Force members unanimously approved this motion. [2/385]
- G. The detailed engineering and design of coastal wetlands restoration projects will be completed using construction funds and, therefore, will be subject to non-Federal cost sharing. The Task Force members unanimously approved this motion. [2/530]
- H. The State of Louisiana will be a full voting member of the Task Force except for implementation of Section 303(a)(2), as described in President Bush's November 29, 1990 signing statement (Enclosure 4). The Task Force members unanimously approved this motion. [2/560]
- I. Approve the establishment of work groups by the Technical Committee, as the Technical Committee deems necessary, to aid in the implementation of Section 303(a) and 303(b). The Task Force members unanimously approved this motion. [3/30]
- J. Remand to the Technical Committee the task of developing a draft scope of work for a contract to support the development of the Priority Project List (Section 303a) and the Restoration Plan (Section 303b). The Technical Committee should prepare an outline of the Restoration Plan development effort and describe how the contract will be incorporated into that outline. The Technical Committee will identify the existing technical support services contracts that are available to the Task Force members to implement the contract proposed by the Technical Committee. The Technical Committee will present the draft scope of work and outline to the Task Force at the next Task Force meeting. The Task Force members unanimously approved this motion. [3/280]

- K. Defer action on the Technical Committee recommendation for reimbursable funding of the Task Force members until the next Task Force meeting. The Task Force members unanimously approved this motion. The Task Force emphasized that no unbudgeted expenditures would be reimbursed without Task Force approval, however, a contingencies clause should be included in the budget to provide for small unanticipated expenditures. The Task Force Chairman agreed to provide each Task Force member with the proposed reimbursement procedures and supporting documents (Enclosure 5) in advance of the next Task Force meeting. The State of Louisiana asked that they be informed of any exceptions to the procedures that may apply to them. [3/430]
- L. Approve the use of the "Wetland Value Assessment Methodology" (Enclosure 6) as the primary wetland quality criteria, subject to successful testing and refinement. The Task Force members unanimously approved this motion. [4/110]
- M. Approve the use of the "Priority List Criteria" (Enclosure 7) developed by the Technical Committee. The Task Force members from the Environmental Protection Agency, the Department of Commerce, and the Department of the Army voted in favor of the motion. The Task Force members from the Department of the Interior and the State of Louisiana voted against the motion. The Task Force member from the Department of Agriculture stated that he was "comfortable either way". The additions to page 2 of Enclosure 7, that were approved by the Task Force, are underlined and the deletions are enclosed by parentheses. [4/500]

V. ADDITIONAL AGENDA ITEMS

The Task Force requested that Mr. Walke, representing Senator Breaux, determine if the November 28, 1991 deadline for submittal of the Priority Project List to Congress is still in effect, given the absence of FY 1991 implementation funds for the CWPPRA [1/430]. Mr. Walke indicated that he would respond to the request. [5/110]

VI. DATE/LOCATION OF THE NEXT TASK FORCE MEETING

The Technical Committee will schedule the next two Task Force meetings and notify the Task Force members. Several Task Force members expressed a desire to hold future Task Force meetings on Mondays, if possible. The first meeting will be scheduled in early August, 1991 and the second meeting will be scheduled on or about September 23, 1991. Both meetings will be held in the Assembly Room of the New Orleans District, U.S. Army Corps of Engineers. [4/660]

VII. QUESTIONS FROM THE PUBLIC

A letter (Enclosure 8) was submitted to the Task Force by Ms. Lillian J. Bayer, and was answered in full by the Chairman.

VIII. ADJOURNMENT

The Task Force meeting was adjourned at 1:35 p.m.

* The Task Force meeting was recorded on audio tape. These bracketed figures represent the Tape#/Counter# for the discussion of this item.

Encl 1

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
June 17, 1991

ENCLOSURE 1

AGENDA

Encl 1

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

June 17, 1991

AGENDA

- I. **Introductions**
 - A. Task Force members and alternates.
 - B. Other attendees.
 - C. Opening remarks by Task Force members.
- II. **Adoption of Minutes from the January 11, 1991 Meeting**
- III. **Technical Committee Recommendations**
 - A. Technical Committee Procedures.
 - B. Planning and Evaluation Work Group.
 - C. Definition of "Major Federal Action".
 - D. Lead Task Force Member Criteria.
 - E. Cost Escalation Limit for Listed Projects.
 - F. Authority to Prepare FY92 Budget.
 - G. Cost Sharing of Detailed Project Design.
 - H. Voting Status of the State.
 - I. Formation of Additional Work Groups.
 - J. Reimbursement of the State for Use of a Contractor.
 - K. Funding of the Task Force Members on a Reimbursable Basis.
 - L. Use of the Wetland Value Assessment Methodology.
- IV. **Priority List Criteria**
- V. **Status of Fiscal Matters**
 - A. Programming of FY 1992 funds.
 - B. Distribution of FY 1992 funds.
- VI. **Additional Agenda Items**
- VII. **Date/Location of the Next Task Force Meeting**
- VII. **Request for Written Questions from the Public**

Encl 2

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
June 17, 1991

ENCLOSURE 2
ATTENDANCE RECORD

Encl 2



ATTENDANCE RECORD



DATE(S) 17 JUNE 91	SPONSORING ORGANIZATION NEW ORLEANS DISTRICT U.S. ARMY CORPS OF ENGINEERS	LOCATION DISTRICT ASSEMBLY ROOM
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PURPOSE LOUISIANA COASTAL WETLANDS TASK FORCE MEETING

PARTICIPANT REGISTER *

NAME	JOB TITLE AND ORGANIZATION	TELEPHONE NUMBER
Jeanine Peckham	EPA	214-655-2263
Gerry Bodin	U.S. F.W.S.	318-264-6630
David Fruge	U.S. F.W.S.	318-264-6630
Rickey Ruebsamen	NOAA/NMFS	504/389-0508
Oscar Rowe	COE, Plug Div, Coastal Sec	504-862-2512
Eld. Schroeder	COE	504-862-2488
Norm Thomas	EPA	214-655-2260 ETS 255-2260
Sue Lane	COE	504- 255 ⁵⁶⁸ :2518
Bill Sargent	DNR (CRD)	504-342-9420
Lillian J. Bayne	1717 North Cumberland, Metairie, La. Concern Group 70003	504-469-4499
Bill Crowl	Acting Adm / DNR / CRD	504-342-7308
Len Bahr	Gov's Office Coastal Activities	504-342-6493
Bill O'Beane	NOAA/Office of Ocean + Coastal Resource Mgmt	(202) 673-5818
Dennis Dembeck	U.S.G.S. - Water Resources Div.	504-389-0391
Charlie Demas	USGS - IBR	504-389-0391
BOB STEWART	NWRC / USFWS - SUPRELL	504-646-7564
PIFF BURK	BURK-KLEINPETER INC.	504-486-5908
David Vigh	COE-NOD - Planning Division	504-862-2540
STEVE HICKMAN	NPS / JEAN LAPITENI P&P	504-589-3882
James E. DuMault	Natural Park Service CANDIDATE FOR GOVERNOR.	7041-79-5331
VEGINIA PIZZO	PUBLISHER & EDITOR: VOICE OF N.O.	
Kay Rodbauer	Coalition To Restore Coastal LA	504-926-0750
Jim Addison	COE Public Affairs	862-2201



ATTENDANCE RECORD



DATE(S) 17 JUNE 91	SPONSORING ORGANIZATION NEW ORLEANS DISTRICT U.S. ARMY CORPS OF ENGINEERS	LOCATION DISTRICT ASSEMBLY ROOM
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PURPOSE LOUISIANA COASTAL WETLANDS TASK FORCE MEETING

PARTICIPANT REGISTER *

NAME	JOB TITLE AND ORGANIZATION	TELEPHONE NUMBER
ROD PITTMAN	COE C/PROGRAMS MGT OFC	(504) 862-2846
Tommy Huntsman	COE Comptrollers Office	(504) 862-2315
JESSICA M FOX	COE PLANNING DIV - ECONOMICS	(504) 862-1922
R. H. Schroeder, Jr	COE PIng Div	(504) 862-2288
Col. Michael Dippley	COE	
MARTIN WALKER	U.S. SEN JOHN BREAUX	504-579-2531
LEN BARR	GOV'S OFFICE OF COASTAL ACTIVITIES	504-342-6493
Michael Melke	Ex Dir. Coalition to Restore Coastal LA	(504) 764-8394-926-0750
David Fruge	U.S. Dept. Interior (Fish & Wildl. Serv)	(318) 264-6630
Bonnie Ambroseau	U.S. Dept of Ag Soil Conservation Service	318-473-7756
Horace Austin	USDA - SCS	318 473-7751
Clement Lewsey	NOAA / CMD Regional Mgr Gulf	202 673 5138
DAVE CARNEY	CELMN-PD-FC	(504) 862 2528

* If you wish to be furnished a copy of the attendance record, please indicate so next to your name.

Encl 3

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
June 17, 1991

ENCLOSURE 3
TECHNICAL COMMITTEE PROCEDURES

Encl 3

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TECHNICAL COMMITTEE PROCEDURES

I. Technical Committee Meetings and Attendance

A. Scheduling/Location

The Technical Committee agreed to establish the second Tuesday of each month as the date for their regular meetings. This schedule will begin in July 1991.

Special meetings may be called upon request and with the concurrence of a majority of the Technical Committee members, in which case, the Chairman will schedule a meeting as soon as possible.

Emergency meetings may be called upon request and with the unanimous concurrence of all members of the Technical Committee at the call of the Chairman. When deemed necessary by the Chairman, such meetings can be held via telephone conference call provided that a record of the meeting is made and that any actions taken are affirmed at the next regular or special meeting.

B. Delegation of Attendance

The appointed members of the Technical Committee may delegate authority to participate and actively vote on the Technical Committee to a substitute of their choice. Notice of such delegation shall be provided orally or in writing to the Task Force Chairman prior to the opening of the meeting.

C. Staff Participation

Each member of the Technical Committee may bring colleagues, staff or other assistants/advisors to the meetings. These individuals may participate fully in the meeting discussions but will not be allowed to vote.

D. Public Participation

All Technical Committee meetings will be open to the public. Interested parties may submit written questions or comments that will be addressed at the next regular meeting.

II. Administrative Procedures

A. Quorum

A quorum of the Technical Committee shall be a simple majority of the appointed members of the Technical Committee, or their designated representatives.

B. Voting

Whenever possible, the Technical Committee shall resolve issues by consensus. Otherwise, issues will be decided by a simple majority vote, with each member of the Technical Committee (including the State of Louisiana) having one vote. The Technical Committee Chairman may vote on any issue, but must vote to break a tie. All votes shall be via voice and individual votes shall be recorded in the minutes, which shall be public documents.

C. Agenda Development/Approval

The agenda will be developed by the Chairman's staff. Technical Committee members may submit agenda items to the Chairman in advance. The agenda will be distributed to each Technical Committee member (and others on an distribution list maintained by the Chairman's staff) prior to the scheduled meeting date. Additional agenda items may be added by any Technical Committee member at the beginning of a meeting.

D. Deadlines

The Technical Committee will establish deadlines for work items such as review of documents and preparation of comments. These deadlines will be set by consensus or majority vote of the Technical Committee members, if required. Each Technical Committee member is expected to strictly adhere to these deadlines in order to facilitate the extensive coordination requirements of the Technical Committee. The failure of a Technical Committee member to meet an approved deadline will be assumed to mean the member has decided not to provide any response.

E. Minutes

The Chairperson will arrange for minutes of all meetings to be taken and distributed after a meeting is held to all Technical Committee members and others on the distribution list.

F. Distribution of Information/Products

All information and products developed by the Technical Committee members or their staffs will be distributed to all Technical Committee members in advance of any proposed action in order to allow adequate time for review and comment, unless the information/product is developed at the meeting or an emergency situation occurs.

III. Miscellaneous

A. Liability Disclaimer

To the extent permitted by the law of the State of Louisiana and Federal regulations, neither the Technical Committee nor any of its members individually shall be liable for the negligent acts or omissions of an employee, agent or representative selected with reasonable care, nor for anything the Technical Committee may do or refrain from doing in good faith, including the following: errors in judgement, acts done or committed on advice of counsel, or mistakes of fact or law.

B. Conflict of Interest

No member of the Technical Committee (or designated representative) shall participate in any decision or vote which would constitute a conflict of interest under Federal or State law. Any potential conflicts of interest must clearly be stated by the member prior to any discussion on the agenda item.

Encl 4

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
June 17, 1991

ENCLOSURE 4

PRESIDENT BUSH'S NOVEMBER 29, 1990 SIGNING STATEMENT

Encl 4

**Statement on Signing the Bill on
Wetland and Coastal Inland Waters
Protection and Restoration Programs**
November 29, 1990

Today I am signing H.R. 5390, "An Act to prevent and control infestation of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes." This Act is designed to minimize, monitor, and control nonindigenous species that become established in the United States, particularly the zebra mussel; establish wetlands protection and restoration programs in Louisiana and nationally; and promote fish and wildlife conservation in the Great Lakes.

Title III of this Act designates a State official not subject to executive control as a member of the Louisiana Coastal Wetlands Conservation and Restoration Task Force. This official would be the only member of the Task Force whose appointment would not conform to the Appointments Clause of the Constitution.

The Task Force will set priorities for wetlands restoration and formulate Federal conservation and restoration plans. Certain of its duties, which ultimately determine funding levels for particular restoration projects, are an exercise of significant authority that must be undertaken by an officer of the United States, appointed in accordance with the Appointments Clause, Article II, sec. 2, cl. 2, of the Constitution.

In order to constitutionally enforce this program, I instruct the Task Force to promulgate its priorities list under section 303(a)(2) "by a majority vote of those Task Force members who are present and voting," and to consider the State official to be a nonvoting member of the Task Force for this purpose. Moreover, the Secretary of the Army should construe "lead Task Force member" to include only those members appointed in conformity with the Appointments Clause.

George Bush

The White House,
November 29, 1990.

Encl 5

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
June 17, 1991

ENCLOSURE 5
REIMBURSEMENT PROCEDURES

Encl 5

A U T O M A T I C R E I M B U R S A B L E P R O C E D U R E S

OUTGOING ORDERS

1. ISSUE AN ORDER (FOR EXAMPLE DD-448) DESCRIBING THE SERVICE OR WORK TO BE PERFORMED. IT SPECIFICALLY PRESCRIBES THE APPROPRIATION FINANCING THE WORK, THE TOTAL DOLLAR AMOUNT AUTHORIZED AND THE CERTIFICATION OF FUND AVAILABILITY BY THE FINANCE & ACCOUNTING OFFICE.

2. AFTER ACCEPTANCE BY THE PERFORMING ACTIVITY THAT THE WORK CAN BE PERFORMED AND RECEIPT OF THE ACCEPTANCE, THE FUNDS ARE FORMALLY OBLIGATED ON THE ISSUERS RECORDS. THE FUNDING AND OBLIGATION AUTHORITY IS INCREASED BY THE OFFICE ACCEPTING THE ORDER.

3. AS WORK IS COMPLETED BY THE PERFORMING ACTIVITY, A BILL SF-1080 IS FORWARDED TO THE ISSUER REFERENCING THE ORDER AND REQUESTING PAYMENT FOR TOTAL COST INCURRED TO DATE.

4. AFTER RECEIPT OF THE BILL BY THE ISSUER, A CHECK IS PREPARED AND FORWARDED TO THE PERFORMING ACTIVITY.

5. THE BILLING AND PAYING PROCEDURES ARE REPEATED EACH BILLING CYCLE (USUALLY MONTHLY) UNTIL THE WORK IS COMPLETED OR UNTIL THE FUNDS ARE EXPENDED. NOTE: IF FUNDS ARE LIQUIDATED PRIOR TO COMPLETION OF ALL WORK, OFFICIAL NOTIFICATION OF ADDITIONAL FUNDS IS REQUIRED PRIOR TO CONTINUATION OF WORK.

appropriation charged under subsection (a) of this section shall be appropriately credited.

(Pub.L. 97-258, Sept. 13, 1982, 96 Stat. 933.)

Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1534(a)	31:628a (1st sentence)	June 29, 1966, Pub.L. 89-473, § 1, 80 Stat. 221.
1534(b)	31:628a (last sentence)	

Explanatory Notes

In subsection (a), the words "Subject to limitations applicable with respect to each appropriation concerned" are omitted as surplus. The words "or any bureau or office thereof" are omitted as being included in "agency". The words "to pay costs" are substituted for "for the purpose of financing the procurement of materials and services, or financing other costs" to eliminate unnecessary words.

In subsection (b), the words "amounts paid under this section" are substituted for "such expenses so financed", and the words "appropriations charged under subsection (a) of this section" are substituted for "financing appropriation", for clarity.

Library References

United States Ⓢ85.

C.J.S. United States § 123.

§ 1535. Agency agreements

(a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if—

- (1) amounts are available;
- (2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;
- (3) the agency or unit to fill the order is able to provide the ordered goods or services; and
- (4) the head of the agency decides ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise.

(b) Notwithstanding subsection (a)(3) of this section, the Secretary of Defense, the Secretary of a military department of the Department of Defense, the Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard, the Secretary of the Treasury, the Administrator of General Services, and the Administrator of the Maritime Administration may place orders under this section for goods and services that an agency or unit filling the order may be able to provide or procure by contract.

(c) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the or-

Ch. 15 APPROPRIATION ACCOUNTING

der. A bill submitted or a request for certification in advance of payment. Pro advance shall be made as agreed to by th the basis of the actual cost of goods or

(d) An order placed or agreement ma appropriation of the ordering agency or obligated to the extent that the agency curred obligations, before the end of the priation, in—

- (1) providing goods or services;
 - (2) making an authorized contr the requested goods or services.
- (e) This section does not—
- (1) authorize orders to be place by convict labor; or
 - (2) affect other laws about wo

(Pub.L. 97-258, Sept. 13, 1982, 96 Stat. 933.)

Amendment of Predecessor P As Supersedi:

Section 4(a) of Pub.L. 97-258, enacted after April 15, 1982, that revised, codified, and enacted this Act to the extent of the inc

Pub.L. 97-332, Oct. 15, 1982, predecessor provision of this section [194, 41 Stat. 613] by substituting "orders for goods and services" for "orders for goods and services only from contract" for former provisions authorizing the Secretary of Defense, the Secretary of the Department of the Coast Guard, the Secretary of the General Services, and the Administrator to place orders under an agency or unit filling the order by contract, substituted providing that such work be let by contract if the work or services are to be cheaply performed by private enterprise, and that any condition or limitation of any executive department

der. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

(d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is debilitated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in—

(1) providing goods or services; or

(2) making an authorized contract with another person to provide the requested goods or services.

(e) This section does not—

(1) authorize orders to be placed for goods or services to be provided by convict labor; or

(2) affect other laws about working funds.

(Pub.L. 97-258, Sept. 13, 1982, 96 Stat. 933.)

**Amendment of Predecessor Provisions After April 15, 1982,
As Superseding This Section**

Section 4(a) of Pub.L. 97-258 provided in part that: "Laws enacted after April 15, 1982, that are inconsistent with this Act [which revised, codified, and enacted this title into positive law] supersede this Act to the extent of the inconsistency."

Pub.L. 97-332, Oct. 15, 1982, 96 Stat. 1622, amended the predecessor provision of this section [section 7(a) of Act May 21, 1920, c. 194, 41 Stat. 613] by substituting language authorizing the placing of orders for goods and services from agencies "in a position or equipped to supply, render, or obtain [those goods or services] by contract" for former provisions authorizing the placing of orders for goods and services only from agencies "in a position to supply or equipped to render [the goods and services]"; struck out provisions authorizing the Secretary of Defense, the Secretary of a military department of the Department of Defense, the Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard, the Secretary of the Treasury, the Administrator of General Services, and the Administrator of the Maritime Administration to place orders under this section for goods and services that an agency or unit filling the order may be able to provide or procure by contract, substituted provisions authorizing the letting of work by contract if the work or services could be as conveniently or more cheaply performed by private agencies for provisions formerly requiring that such work be let by competitive bids, and added provision that any condition or limitation applicable to the procurement funds of any executive department, independent establishment, bureau, or

office which places an order or lets a contract under the provisions of this section be applied in placing such order or letting such contract.

Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1535(a)	31:686(a) (1st sentence words before 15th comma, last proviso).	Mar. 4, 1915, ch. 143, § 1 (3d proviso on p. 1084), 38 Stat. 1084; May 21, 1920, ch. 194, § 7(a), 41 Stat. 613; June 30, 1932, ch. 314, § 601, 47 Stat. 417; restated July 20, 1942, ch. 507, 56 Stat. 661; Aug. 23, 1958, Pub.L. 85-726, § 1407, 72 Stat. 808; Aug. 6, 1981, Pub.L. 97-31, § 12(11), 95 Stat. 154; Dec. 29, 1981, Pub.L. 97-136, § 11, 95 Stat. 1707.
1535(b)	31:686(a) (1st sentence 1st proviso)	
1535(c)	31:686(a) (1st sentence words between 15th comma and 1st proviso, last sentence).	
1535(d)	31:686(c)	May 21, 1920, ch. 194, § 7(c), 41 Stat. 613; June 30, 1932, ch. 314, § 601, 47 Stat. 417; restated June 26, 1943, ch. 150, § 1, 57 Stat. 219.
	31:686-1	Sept. 6, 1950, ch. 896, § 1210 (last proviso), 64 Stat. 765.
1535(e)(1)	31:686b(a), (b)	June 30, 1932, ch. 314, § 602(a), (b), (c) (related to § 602), 47 Stat. 418.
1535(e)(2)	31:686b(c) (related to 31:686, 686b)	

Explanatory Notes

In the section, the word "agency" is substituted for "executive department or independent establishment of the Government" for clarity. See 12 Comp.Gen. 442 (1932) and *United States v. Mitchell*, 425 F.Supp. 917 (D.D.C.1976). The words "major organizational unit" or "unit" are substituted for "bureau or office" for consistency in the revised title. The words "to fill the order" or "filling the order" are substituted for "such requisitioned" and "as may be requisitioned" for clarity and because of the restatement. The words "goods or services" are substituted for "materials, supplies, equipment, work, or services" to eliminate unnecessary words.

In subsection (a)(4), the words "the head of the agency decides" are added, and the words "commercial enterprise" are substituted for "private agencies", for clarity. The words "by competitive bids" are omitted as surplus because of various procurement laws.

In subsection (b), the words "The Secretary of Defense" are added for clarity because of Comptroller General decision B-20179 (Apr. 1, 1981). The words "a military department of the Department of Defense" are substituted for "the Department of the Army, Navy Department" for consistency with title 10 [Title 10, Armed Forces] and to apply the source provisions to the Department of the Air Force because of sections 205(a) and 207(a)

and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501, 502), and section 1 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 488) [which enacted Title 10, Armed Forces]. The words "Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard" are substituted for "Federal Aviation Agency, Coast Guard" to reflect the transfer of those functions to the Secretary of Transportation. The words "the Administrator of General Services" are added to reflect the transfer of the functions of the Bureau of Federal Supply of the Treasury Department to the Administrator by section 102(a) of the Act of June 30, 1949 (40:752(a)) [section 752(a) of Title 40, Public Buildings, Property, and Works]. The words "the Administrator of" are added before "Maritime Administration" for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (c), the words "pursuant to such order" are omitted as unnecessary.

Subsection (d) is substituted for the source provisions being restated to reflect decisions of the Comptroller General, including 31 Comp.Gen. 83 (1951), 34 Comp.Gen. 418 (1955), 39 Comp.Gen. 317 (1959), and 55 Comp.Gen. 1497 (1976).

In subsection (e), the words "any Government department or independent establish-

ment, or any bureau or office thereof" and "except as otherwise provided by law" are omitted as unnecessary because of the restatement.

Cross

- Agreements for transfer of persons serving in Administration facility for treatment or abuse disabilities, see section 620.
- Availability of reimbursements made to agency section, see section 2205 of Title 10.
- Expenditure of amounts paid under this section specified, see section 1536 of this title.
- Orders or contracts for materials placed with vendors, see section 23 of Title 41, Public Buildings, Property, and Works.
- Placing of orders by Federal Energy Regulatory Commission, etc., see section 825k of Title 16.

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1. Rules and regulations

General Regulations of the General Accounting Office, which prescribed administrative procedure for adjustments between appropriations and/or funds "for general operations through the government service", were to be invalid because in conflict with provisions of former section 686 of this title, 37 Op.Atty.Gen. 559.

2. Agreements between court and Archivist

It appeared that former section 686 of this title permitted the court and the Archivist of the United States to enter into an agreement to assure that copies of high quality were produced relatively quickly, at a reasonable price, and in sufficient quantity. *United States v. Mitchell*, D.C.D.C.1976, 425 F.Supp. 917.

3. Loans

Loans of supplies, equipment, and materials may have been made on a non-reimbursable basis if for a temporary period and the borrowing agency agreed to assume or incur from the loan, but potentially non-reimbursable transfers must have been made on a reimbursable basis to comply with former section 686(a) of this title. 1980, 59 Cor. 366.

act under the provisions of or letting such contract.

Notes

Source (Statutes at Large)

Mar. 4, 1915, ch. 143, § 1 (3d proviso on p. 1084), 38 Stat. 1084; May 21, 1920, ch. 194, § 7(a), 41 Stat. 613; June 30, 1932, ch. 314, § 601, 47 Stat. 417; restated July 20, 1942, ch. 507, 56 Stat. 661; Aug. 23, 1958, Pub.L. 85-726, § 1407, 72 Stat. 808; Aug. 6, 1981, Pub.L. 97-31, § 12(11), 95 Stat. 154; Dec. 29, 1981, Pub.L. 97-136, § 11, 95 Stat. 1707.

May 21, 1920, ch. 194, § 7(c), 41 Stat. 613; June 30, 1932, ch. 314, § 601, 47 Stat. 417; restated June 26, 1943, ch. 150, § 1, 57 Stat. 219. Sept. 6, 1950, ch. 896, § 1210 (last proviso), 64 Stat. 765. June 30, 1932, ch. 314, § 602(a), (b), (c) (related to § 602), 47 Stat. 418.

of the Act of July 26, 1947 (ch. 343, 501, 502), and section 1 of the Act of 10, 1956 (ch. 1041, 70A Stat. 488) enacted Title 10, Armed Forces. Secretary of Transportation in out duties and powers related to avoid the Coast Guard" are substituted Federal Aviation Agency, Coast Guard" the transfer of those functions to the y of Transportation. The words "the rator of General Services" are added t the transfer of the functions of the of Federal Supply of the Treasury De- t to the Administrator by section of the Act of June 30, 1949 a) [section 752(a) of Title 40, Public s, Property, and Works]. The words dministrator of" are added before me Administration" for clarity and ncy in the revised title and with other the United States Code.

section (c), the words "pursuant to er" are omitted as unnecessary.

tion (d) is substituted for the source ns being restated to reflect decisions Comptroller General, including 31 en. 83 (1951), 34 Comp.Gen. 418 39 Comp.Gen. 317 (1959), and 55 en. 1497 (1976).

section (e), the words "any Govern- partment or independent establish-

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ment, or any bureau or office thereof" and "except as otherwise provided by law" are omitted as unnecessary because of the restatement. The text of 31:686b(a) [former section 686b(a) of this title] is omitted as executed.

Cross References

Agreements for transfer of persons serving in active military, naval, or air service to Veterans' Administration facility for treatment and rehabilitation for alcohol or drug dependence or abuse disabilities, see section 620A of Title 38, Veterans' Benefits. Availability of reimbursements made to appropriations of Department of Defense under this section, see section 2205 of Title 10, Armed Forces. Expenditure of amounts paid under this section in providing goods or services or for purpose specified, see section 1536 of this title. Orders or contracts for materials placed with government-owned establishments deemed obligations, see section 23 of Title 41, Public Contracts. Placing of orders by Federal Energy Regulatory Commission with other departments for engraving, etc., see section 825k of Title 16, Conservation.

Notes of Decisions

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Former section 686 of this title applied only to sales, and not to loans, and hence did not authorize loan of Army equipment to officers of Department of Justice. U. S. v. Banks, D.C.S.D.1974, 383 F.Supp. 368.

Sale and loan of government equipment to Department of Justice to be used in executing laws was not authorized by regulation promulgated under sections 331 to 333 of Title 10, dealing with issuance of presidential proclamation as basis for federal troop intervention in civil law enforcement where no presidential proclamation was involved in case which arose out of Wounded Knee occupation. Id.

1. Rules and regulations

General Regulations of the General Accounting Office, which prescribed administrative procedure for adjustments between appropriations and/or funds "for general use through the government service", were held to be invalid because in conflict with provisions of former section 686 of this title. 1934, 37 Opp.Atty.Gen. 559.

2. Agreements between court and Archivist

It appeared that former section 686 of this title permitted the court and the Archivist of the United States to enter into an agreement to assure that copies of high quality were produced relatively quickly, at a reasonable cost, and in sufficient quantity. United States v. Mitchell, D.C.D.C.1976, 425 F.Supp. 917.

3. Loans

Loans of supplies, equipment, and materials may have been made on a non-reimbursed basis if for a temporary period and the borrowing agency agreed to assume costs incurred from the loan, but potentially permanent transfers must have been made on a reimbursable basis to comply with former section 686(a) of this title. 1980, 59-Comp.Gen. 366.

4. Obligations of agencies or units

Regardless of whether or not Bureau of Alcohol, Tobacco and Firearms duly places order for strip stamps with Bureau of Engraving, it may obligate annual appropriations at end of fiscal year only to extent that stamps are printed or are in process, or if a contract has been entered into with a third party to provide the stamps. 1980, 59 Comp.Gen. 602.

5. Pro rata interests of agencies

A facility constructed by one agency for the use of several agencies under the authority in former section 686 of this title was considered the property of all the agencies on a pro rata basis and none of the agencies could have limited, restricted, reduced, abridged, or encumbered in any manner the pro rata interests of the others. 38 Comp.Gen. 36 (1958).

6. Resale or interdepartmental transfer

Former section 686 of this title was directed to assuring that bookkeeping adjustment of respective appropriation accounts reflected the full "actual cost" when goods or services were requisitioned from one agency by an or-

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der of another agency, and did not alter the basic character of the requisitional order as an interdepartmental transaction between agencies of the United States government, and thus did not support contention that transfer of natural gas from the Army to Defense Family Housing was a resale for purposes of jurisdiction of the Federal Energy Regulatory Commission rather than merely an interdepartmental transfer. Alexander v. Federal Energy Regulatory Commission, 1979, 609 F.2d 543, 197 U.S.App.D.C. 288.

7. Services

Former section 686(a) of this title did not require that all interdepartmental loans of employees be made on reimbursable basis; contrarily, such loans of services should have been reimbursed only where so provided by prior written agreement between the agencies involved. 1980, 59 Comp.Gen. 366.

Services rendered by government employees as members of security hearing boards es-

§ 1536. Crediting payments from purchases between executive agencies

(a) An advance payment made on an order under section 1535 of this title is credited to a special working fund that the Secretary of the Treasury considers necessary to be established. Except as provided in this section, any other payment is credited to the appropriation or fund against which charges were made to fill the order.

(b) An amount paid under section 1535 of this title may be expended in providing goods or services or for a purpose specified for the appropriation or fund credited. Where goods are provided from stocks on hand, the amount received in payment is credited so as to be available to replace the goods unless—

(1) another law authorizes the amount to be credited to some other appropriation or fund; or

(2) the head of the executive agency filling the order decides that replacement is not necessary, in which case, the amount received is deposited in the Treasury as miscellaneous receipts.

(c) This section does not affect other laws about working funds.

(Pub.L. 97-258, Sept. 13, 1982, 96 Stat. 934.)

Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1536(a)	31:686(b) (1st, 2d sentences)	May 21, 1920, ch. 194, § 7(b), 41 Stat. 613; restated June 30, 1932, ch. 314, § 601, 47 Stat. 418.
1536(b)	31:686(b) (3d, last sentences)	
1536(c)	31:686b(c) (related to 31:686)	June 30, 1932, ch. 314, § 602(c) (related to § 601), 47 Stat. 418.

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established in accordance with Ex.Ord.No. 10450, Apr. 27, 1953, 18 F.R. 2489, set out under section 7311 of Title 5, were not within the contemplation of former section 686 of this title and therefore the appropriations of the agencies for which the hearings were held were not available for reimbursing the appropriations of the agencies furnishing the hearing board members. 32 Comp.Gen. 534 (1953).

8. Supervision or administrative expenses

Inasmuch as a Military Interdepartmental Procurement Request is considered placed pursuant to this section, to the extent that the Corps of Engineers is otherwise authorized to recover supervision and administrative expenses incurred in performing such a request for the Air Force, the Corps should be reimbursed from appropriations current when the costs were incurred or when the Corps entered into a contract with a third party to execute the request. 1980, 59 Comp.Gen. 563.

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In subsection (b), the words "goods or services" are substituted for "materials, supplies, or

Availability of reimbursements in section, see section 2205 of Title 5, Orders or contracts for materials and supplies, see section 23 of Title 5, Placing of orders by Federal Energy Regulatory Commission, etc., see section 82

§ 1537. Services between District of Columbia

(a) To prevent duplication of services by an officer or employee of—

(1) the United States District of Columbia government

(2) the District of Columbia United States Government

(b)(1) Services under this section—

(A) negotiated by or for the District of Columbia and

(B) approved by the District of Columbia Budget and the Mayor

(2) Each agreement shall be borne in the way in which the government to which the services are provided bears the actual cost of providing the services

(3) To carry out an agreement, the District of Columbia may provide for the delegation of services to—

(A) the District of Columbia of the United States Government

(B) the United States District of Columbia government

(c) In providing services between the District of Columbia and the United States Government of this section—

(1) costs incurred by the District of Columbia from appropriations available to the District of Columbia officer or employee to whom the services are provided

(2) costs incurred by the United States Government paid from amounts available to the United States Government officer or employee to whom the services are provided

Table 16-2
Individual advances, 1 October 1989

Type of travel	Department, FY, basic symbol, and OA	ASN	Project	EOR	FSN
Specific station-funded travel, retained travel advances, and FMS travel	From travel order	From travel order	From travel order	From AR 37-100-FY	Servicing FSN
Members of the IRR or National Guard officers attending basic course where orders were issued by U.S. Army Reserve Personnel Center	Mission funds of the FAO servicing the training site	9930	P0930	From AR 37-100-FY	FSN of the FAO servicing the training site
Military personnel on travel being charged to an open allotment for TDY not in conjunction with PCS	Open allotment shown in AR 37-100-FY plus the OA responsible for the open allotment	From travel order	From travel order	4110	FSN of the FAO maintaining the DD Form 1588 or, if nonintegrated, FSN of the servicing accounting office
Military PCS	Use the management designator code if there is a systems conversion to the accounting classification; otherwise use the conversion table in AR 37-104-3, table J-8	From travel order	From travel order	From table J-8	S99999
DOD civilian PCS	Gaining station's funds cited on the order	From travel order	From travel order	4120	FSN of the gaining station

Table 16-3
Other advances

Type of advance	Department, FY, basic symbol, and OA	ASN	Project	EOR	FSN
Contract advances	From the fund cite on the contract	From contract	0942	4140	Servicing FSN
Advance to Government agencies	Funds of the activity authorizing the advance	From the funding document DA Form 1323	0944	4140	Servicing FSN
Special advances to Army appropriations or to Marine Corps, Navy, or Air Force	Funds of the activity authorizing the advance	From the funding document DA Form 1323	095* 1	4140	Servicing FSN
Advances to armed forces of friendly foreign nations ²	Funds of the activity authorizing the advance	9970	0970	4140	Servicing FSN
Advances from armed forces of friendly foreign nations	Funds of the activity performing the work	9975	0975	4140	FSN of the settlement office

Notes:

¹ See AR 37-100-FY.

² If the advance of funds is made by a nonintegrated disbursing activity, cite the FSN and OA of the servicing accounting office.

Chapter 17 Reimbursable Orders

17-1. General

An order is a request of a command, agency, installation, or activity to provide work or services of a specific and definite nature.

17-2. Issuing orders

a. Issue orders only for a bona fide need of the fiscal year in which the order is placed. Finance them with currently available funds.

b. Issue orders in advance of expected start time to allow for the development of sound operating budgets and to take into consideration procurement lead time.

c. The ordering officer may not be the same person who ensures the availability of funds.

d. Negotiate all orders for other than supplies with performing activities prior to initiation. This is to provide cost estimates for each item of work or service to be performed and to determine whether the order is to be a direct citation of customer's funds, a project order, or an Economy Act order. The performer decides the method of financing and the type of order to be issued.

e. An order must be either direct citation of customer funds, project order, or Economy Act order. When issuing an order, type one of the following statements on the DD Form 448:

(1) Direct citation of customer funds per this regulation/DODI 7220.9M.

(2) Project order per this regulation/DODI 7220.1.

(3) Economy Act order per this regulation/DODI 7220.9M.

f. Always use a direct citation of funds (MIPR/letter/message) for pay, travel, major new construction of real property, education, training, subsistence, storage, laundry, welfare, or transportation (including port handling) where any of these items is the primary object of the order. Exceptions to the use of direct fund cite are—

(1) Orders issued to a revolving fund activity.

(2) Orders issued to support the Army's "customer charge back" program.

g. When an ordering activity places an order on behalf of persons or agencies outside the Federal Government, it will indicate this on the order.

h. Show prices on the order or in a list incorporated by reference. Where the work to be performed is the subject of a work list (for example, equipment overhaul), consider each entry on the work list an item.

i. Support orders for depot maintenance, authorized (that is, funded) quantities by unserviceable reparables either on hand or verified through documentation as in transit to depots.

j. Amendments to orders that increase their scope or value may be made at any time the appropriation cited on the order is available for obligation. Do not increase the scope if the financing appropriation has expired. Originally cited appropriations that have expired are available only for increases in price.

k. Do not issue orders—

(1) That violate provisions of the law.

(2) For the purpose of continuing the availability of appropriations.

(3) That violate regulations on commercial contracting procedures.

(4) To finance contracts with private industries or research installations. Orders for specific work or services are permitted.

(5) To a performing activity under the same commander unless the commander is assigned multiple missions. In this case, the commander of both the issuing activity and the performing activity may be the same person. When this occurs, the identities of these two functions must be kept separate so that the concept of contractual relationship is retained. To do so requires that the order be financed by a fund entity other than that in which the work is performed.

l. Upon default or failure to perform work or deliver items, consider recipients of orders as defaulting contractors. The ordered material or services may be procured elsewhere, if a need still exists, using the unobligated balance in the original appropriations. This may be done after the period of availability of the appropriations for obligation.

m. Issue orders for aviation fuel using DD Form 1898 (AVFUELS Into-Plane Contract Sales Slip). Submit requests for stock fund material using DD Form 1348-1 (DOD Single Line Item Release/Receipt Document) (MILSTRIP Requisition) per DOD 4140.17-M. When submitting DD Form 1898 or DD Form 1348-1, do not use fund code "XP." "XP" designates non-interfund billing. Issue direct fund citations by message, memorandum, or DD Form 448. Issue all other orders using DD Form 448. See figure 17-1 for completion instructions for DD Form 448.

n. Special rules for project orders.

(1) Issue project orders to Government-owned Government-operated (GOGO) establishments for the following work or services (if the work will be performed in house and the ordering activity and the performing activity are separately financed):

(a) Production or construction, modification, conversion, alteration, renovation, overhaul, rebuild, maintenance, or rehabilitation of—

1. Guided missiles and other weapons.

2. Vehicles of all kinds.

3. Ammunition, clothing, and machinery.

4. Other military supplies and equipment.

5. Component parts and spare parts for the above items.

(b) RDTE work (to the extent properly made the subject of orders pursuant to other provisions listed below).

(c) Minor construction or maintenance of real property.

(2) Do not issue project orders if the start of work depends on issue of any other documents or authorizing actions. Like commercial contracts, project orders may contain special provisions and later be modified or amended. Modifications or amendments, including the extension of expiration dates, must be issued and accepted in the same manner as the original order.

(3) Project orders may include the cost of special machinery or equipment to be used in performing the order if the item and its costs are in the terms of the order and are separate and distinct from other costs. Such machinery and equipment becomes the property of the ordering activity. The ordering activity will provide instructions for its disposal.

(4) An Army component having immediate and direct management responsibility for a program (or part of a program) is authorized to issue project orders for the program. Commanders at a level higher than that of the component having such program responsibility will not issue project orders.

(5) Cost-reimbursement project orders must contain estimates that will be the ceiling amounts for billing and reimbursement.

(6) Ordering agencies will combine small orders for similar items on a single project order, when possible, to reduce the total number of orders.

(7) Project orders must fund the entire project. The exception is project orders issued for RDTE work through the end of the fiscal year (incrementally funded).

(8) Subsidiary ordering (within Government) or contracting (with commercial firms) is authorized provided that it is incidental to carrying out the project order.

(9) For production acceptance testing at GOGO test facilities, since testing is a follow-on to production, the customer is to ensure that production is ongoing before issuing the production acceptance test project order. If delivery is not expected until after expiration of the appropriation, issue project orders prior to expiration of funds.

17-3. Emergency orders

For emergency situations, work may begin before an order is received, if approved by the performing installation's commander or equivalent. These orders (called commander's orders) are subject to the following conditions:

a. There must be a bona fide emergency arising from unforeseen needs.

b. The installation/activity performing the work must have assurance that an order will be issued promptly.

c. Commander's orders expire 30 days from the date that the commander verbally issues the orders.

d. Commander's orders will not be used to compensate for administrative lead time that should have been considered in advance planning.

17-4. Accepting orders

a. Work may be performed using the customer's funds (direct fund cite) and/or using the performer's funds with reimbursement by the customer. Direct fund cite is preferred. Upon receipt of an MIPR, the performing activity will prepare DD Form 448-2 (Acceptance of MIPR). See figure 17-2 for a sample DD Form 448-2. In either case, on receipt of a direct fund cite or an order accepted

as a direct fund cite, performing activities will not further reissue those funds (fund cite provided by the ordering activity) to another Government agency/activity.

b. Accept orders on a reimbursable basis only if the funding document for the appropriation to be used to finance the work provides this authority. There are two kinds of reimbursement authority, automatic and funded. Orders accepted in excess of funded reimbursement authority must be financed by direct funds. Reimbursement authority, automatic and/or funded, will be provided on the funding document or DA Form 1323 (Funding Authorization Document). The finance and accounting officer of the performing installation/activity is responsible for classifying the order as either "funded" or "automatic" and for establishing accounting controls for all orders received and accepted.

c. Do not accept reimbursable orders that are inconsistent with mission without MACOM approval.

d. The accepting officer must be a duly authorized employee of the performing installation/activity.

e. Project orders may be accepted any time in the fiscal year in which delivery of production is scheduled, provided the obligation life of the financing appropriation has not expired.

f. When the end-time production delivery schedule dictates a work start after expiration of the financing appropriation, accept the project order in the final year of the obligation life of the appropriation.

g. As a minimum requirement, evidence must exist of the recipient's intent and capability to begin the work within 90 days and complete the order within the projected period. Otherwise, the order cannot be accepted. The start of work is defined as cost incurred or any other action that cannot legally be performed without an accepted project order. (For example, expenditure of direct labor or consumption of parts and materials or issuing a contract to purchase parts or materials peculiar to the order that are not stocked by Government/wholesale supply systems.) These actions do not qualify as a valid start of work if they are taken earlier than necessary to support the completion of the order.

h. Upon acceptance, orders become the authority for performers to incur cost in accordance with the terms of the order.

i. Record orders received and accepted, which the acceptor will finance with multiyear appropriations, in the current year appropriation. A new reimbursable order will not be recorded in a multiyear appropriation after its first year of availability.

j. Acceptances must specify if reimbursement is on the basis of "fixed price" or "cost incurred." Use a fixed-price basis if all the following conditions are present:

(1) Work specifications are stable and specific. The specifications for each item are made part of the order (or are incorporated by reference).

(2) Each item or service ordered is separately priced.

(3) Substantial contingencies are not included in the price nor considered to be involved in performance. Provisions for contingencies in price or performance will be held to a minimum. Price contingencies will be related to definite factors (for example, expected material price increases or labor rate increases). Hence, cost variations in performance can be expected to be minor.

(4) Standards used in cost estimating include expected cost variances.

(5) The price established in a fixed-price order is considered a firm price for purposes of reimbursement. The price, however, is subject to amendments for changes in the scope of the order.

(6) Many change orders are not expected and work makes it practicable to use a fixed-price order.

k. For orders placed on behalf of persons or agencies outside the Federal Government, the accepting activity will put an estimate of the unfunded cost on the acceptance.

l. Performing activities will record orders received as follows:

(1) FMS orders that cannot be fully actionable in the year of acceptance do not establish obligational authority. Record orders received in the amount of the estimated—

(a) Obligations in the current year.

(b) Outstanding commitments at fiscal year end in RDTE, procurement, and construction appropriations.

(2) For all other orders, record the full amount of the order.

17-5. Funded reimbursement authority

a. Funded reimbursement authority is provided on funding documents with specific dollar ceilings. It is available for obligation only to the extent that orders have been received or estimates established.

b. When funded reimbursable orders are accepted and accounted for by an operating agency, or when collections are made by or to the credit of an operating agency, but the related work, services, or sales are done by subordinate installations, the funds made available by acceptance of the orders must be allotted to the performing installation(s) as direct funds.

c. When Defense Property Disposal sales are processed as funded reimbursements, costs incurred are reimbursable up to the amount of funded reimbursement authority specified on the funding document. Since USAFAC collects these receivables, the exact amount of the reimbursable costs incurred must be transferred at the end of each month.

d. Funded reimbursement authority funds the amounts required to finance laundry services for those soldiers authorized such collections. Process collections for laundry services made by standard payroll deduction for soldiers (paid by Joint Uniform Military Pay System (JUMPS)-Army) as funded reimbursements in OMA and Operation and Maintenance, Army Reserve (OMAR).

(1) Based on information (memorandum) received monthly from the laundry officer, record a monthly funded reimbursable order covering soldiers' (except ROTC) voucher deduction collections to be made by JUMPS-Army. Support the memorandum with a monthly roster of those soldiers paid from the Military Personnel Army (MPA) appropriation, who have collections from their pay for laundry and dry cleaning. (See AR 210-130.)

(2) Prepare OF 1017G (Journal Voucher) at the end of the month to reduce the funded reimbursable order by the amount deducted on manual payroll vouchers processed during the month for laundry services. (This reduction applies to collections charged to MPA appropriation only.) Make this adjustment prior to preparing the monthly CSCFA 112 report.

(3) Establish earnings in the same amount as the funded reimbursement order, which was based on firm laundry rosters. Even though a soldier may depart on PCS at other than month-end, the losing installation establishes the earning based on the previously recorded order. Identify earnings established for laundry operation with reimbursement source code 932 (see AR 37-100-FY) and transfer the receivables monthly on the RCS CSCFA-112 report (see chap 29). Ensure that the monthly amount reported as earned and transferred for collection on the RCS CSCFA-112 report is reconciled with the amount reflected on the laundry and dry cleaning facility report provided by the laundry officer.

(4) Adjustments to a soldier's pay account processed as pay code 37 on a final separation Military Pay Voucher result in an adjustment to funded orders and earnings if both of the following conditions occur:

(a) The soldier was served by the local laundry facility during the period of adjustment (that is, soldier is signed up for laundry by payroll deductions).

(b) The soldier was paid by JUMPS-Army during the period of adjustment. Otherwise make no adjustment to the installation's funded or automatic orders and earnings.

(5) The installation's servicing accounts office includes receivables transferred on the RCS CSCAA-118 report (see chap 30) to USAIAC.

17-6. Automatic reimbursement authority (ARA)

ARA is provided without dollar ceiling. Except for OMA/OMAR appropriations, the type of order, funded versus automatic, depends on the financing appropriation, not the work/services being provided. The following are examples of items that may be accounted for as "automatic reimbursements":

a. On the basis of specific orders—

(1) Service to tenants or satellite activities.

(2) Sales of supplies or services to customers financed by other allotments, appropriations, or funds.

(3) Medical care and medicare services provided by U.S. Army Health Services Command (HSC) activities as set forth in AR 40-3.

(a) Medical care furnished by Army medical treatment facilities (MTFs) to beneficiaries of certain Federal departments, agencies, and certain categories of patients specified in AR 40-3, appendix B, are not reimbursable at the local level. The local MTFs will be directly funded through the budgeting process for these expenses, but the responsibility for collection is centrally controlled by HSC.

(b) The medical services accountable officer (MSAO) will prepare a separate DD Form 7 (Report of Treatment Furnished Pay Patients: Hospitalization Furnished (Part A)) and DD Form 7a (Report of Treatment Furnished Pay Patients: Outpatient Treatment Furnished (Part B)) and submit to HSC for each Federal department, agency, foreign government or country, and each patient category specified in AR 40-3, appendix B, as centrally reimbursed.

(4) Expenses incurred in support of Defense Property Disposal Offices in accordance with Inter-Service Support Agreements.

b. On the basis of estimates—

(1) Communication services.

(2) Laundry services for individual cash collections and collections by voucher deduction on manual pay vouchers other than final separation transactions.

c. Other—

(1) Collections resulting from claims against carriers, if authorized to be retained in the financing appropriation.

(2) Reimbursements for financing MAP and FMS training of foreign personnel by the U.S. Army.

17-7. Executing customer orders

a. Orders will not be administered or accounted for as separate subdivisions of funds, as allotments are. The ordering activity will perform appropriation-type accounting for the order as if it were a contract.

b. If the performing activity cannot perform on schedule or complete the order, it will promptly notify the ordering activity. The ordering activity may then amend or terminate the order and adjust its obligation to the amount required to reimburse the performing activity.

c. Performing activities will notify ordering activities when the value of the order exceeds funding needs and upon completion of orders. Notification will be made by message/letter/DD Form 448-2 depending on source of document received by the performing activity. The performing activity will reduce orders accordingly. Performing activities will use this notification to reduce obligations. To ensure that excess funds are not encumbered at fiscal year end, performing activities will review unexecuted balances of reimbursable orders as of 30 June, 31 July, and 31 August and promptly return excess funds to the ordering activities. USACE will notify customers of unused funds provided for contingencies.

d. When ordering activities stop orders prior to completion, the ordering activity will add closing costs in the amount to be reimbursed. The total amount to be reimbursed will not exceed the amount of the fixed-price order or the current ceiling amount on cost-reimbursement orders. When the ordering activity of any military department and the performing activity of another cannot reach an agreement on termination costs, both activities will refer the case to their MACOM for resolution. If the MACOMs cannot resolve the dispute, they will refer it to Director of Finance and Accounting (OASA(FM)), ATTN: SAFM-FAP-A, Indianapolis, IN 46249-1026.

e. At year end, performing activities will adjust orders as shown in table 17-1.

f. Where a project order start is delayed beyond 90 days, the performing activity must obtain approval of the delay from the ordering activity. The ordering activity may cancel the order and procure the material or services from another source.

g. For cost-reimbursement project orders, the performing activity will notify the ordering activity promptly upon learning of any significant change in costs. This notice is given so that the project order can be amended and obligations adjusted. When estimated ceiling amounts show a need for adjustment, the ordering and performing activities should negotiate. Negotiation and adjustment should be finished before costs exceed 75 percent of the obligated project order amount. The performer must absorb minor differences.

h. Convert a cost reimbursement project order to a fixed-price project order if—

(1) The conditions in paragraph 17-4j exist.

(2) Not more than 50 percent of the cost of the work has been incurred.

(3) Not more than 50 percent of the period of performance has expired.

i. If project orders that combine small orders for similar items are not completed within 60 days after fiscal year end, unused funds must be returned to the customers.

17-8. Reimbursement earned

Reimbursement earned is the cost incurred in the completion of customer orders by the performing activity. These costs are used as a basis for billing customers. Terms of the related reimbursable order dictate how actual billings are made. Rules for recording reimbursement earnings are as follows:

a. Record earnings for all costs that can be readily identified to an order.

b. Provide documentation to support the recording of reimbursements earned, which will consist of job orders, issue and turn-in slips, shipping documents, sales documents or equivalent instruments evidencing performance, and/or administratively prepared estimates of accruals where performance documents do not exist. As a minimum, earnings documents will include—

(1) Dollar amount of the earning.

(2) A complete description of the services performed or supplies issued.

(3) The period of performance.

(4) Identification of the earnings so that they can be matched with the related order.

(5) Name and telephone number of the performing activity.

c. Reimbursements earned will never exceed the amount of the accepted order.

d. Stock fund earnings are not recorded until the material release order for shipment is issued.

17-9. Determining charges for support provided to other departments and Federal agencies (cross-servicing)

a. When possible, specify the basis for determining reimbursement in servicing agreements prior to furnishing the service. Charge the cost of travel, per diem, and/or nonpersonal services performed as part of cross-servicing support to the requiring activity. Cite the funds of the requiring activity on bills of lading for transportation that is part of cross-servicing support. Bill serviced activities for utilities at cost, if they are a separate and distinct service and not incidental to another cross-service support agreement.

b. Determine the amount to charge for cross-service support using the following sources:

(1) For Stock Fund items, use the price in the Army Master Data File.

(2) For storage activities, use AR 740-1.

(3) For accessorial charges, use AR 37-8.

(4) For AIF and other manufacturing or construction activities, use AR 37-110.

(5) For services performed at an installation or activity not operating a cost accounting system, use AR 37-60.

17-10. Billing procedures

a. Bill ordering activities on the basis of jobs completed or services rendered in accordance with the order terms. Progress payments approximating cost incurred may be required if an order

takes a long time to fill. Any method agreeable to both the requester and the performer may be used as basis for reimbursement, provided it is reasonable, accurate, simple, and does not violate other regulations.

b. Charges for services performed by non-AIF activities will include direct material under applicable pricing regulations. Charges will also include civilian labor costs, plus a percentage to cover net direct cost to the host for personal services fringe benefits. These may include annual leave, holidays, sick leave, and contributions for group life insurance, civil service retirement, and health benefits. (See AR 37-60.)

c. The Director of Finance and Accounting, SAFM-FAP-S, will provide rates to be charged for the use of Army aircraft and disposition instructions for the collections via message.

d. For cost-reimbursable project orders, Army activities operating an industrial-type cost accounting system must determine reimbursable cost in accordance with AR 37-110 or AR 37-55.

e. Bill Federal agencies as frequently as practical (at least monthly) taking into consideration the volume and dollar value of billable transactions and system capabilities.

f. For orders placed on behalf of persons or agencies outside the Federal Government, the billing activity will annotate bills with the amount of unfunded cost.

g. Bill non-Federal customers within 1 workday after the billing office has been advised that goods were shipped or services completed. If the estimated amount due is more than \$50,000, partially bill non-Federal customers even if the total amount of indebtedness has not yet been determined. Bill for 75 percent of the estimated amount due and include a statement that the additional billing will be made when the amounts are determined. If the estimated value is less than \$50,000, bill non-Federal customers if it is cost effective to do so.

h. Bill by—

(1) Interfund for supply transactions within DOD. Bill Army customers through the interfund system. If another DOD component submits a requisition, order, or a DD Form 1898 with a fund code of "XP," Army activities will honor the non-interfund billing procedures designated by this fund code.

(2) Self-reimbursement (no-check-drawn) for all nonsupply transactions within DOD. This requirement eliminates the need for precertification of billings by ordering activities. NOTE: Billings to the Army Corps of Engineers Civil Funds and specifically designated DOD agencies will be on a "check-drawn" basis until their systems have been redesigned. Ordering and performing activities insisting on deviating from self-reimbursement procedures will submit requests to Director of Finance and Accounting (OASA(FM)), ATTN: SAFM-FAP-A, Indianapolis, IN 46249-1026. See figure 17-3 for SF 1080 bill preparation procedures and figure 17-4 for a sample computer-generated bill. See chapter 15 for SF 1081 preparation instructions.

(3) SF 1080 or a computer-generated equivalent, for within-Government transactions outside DOD.

(4) DA Form 1857 (Statement of Account) for all non-Government transactions. See figure 17-5 for DA Form 1857 preparation instructions.

i. Support all bills by a statement of services furnished or by evidence of shipment (for example, shipping documents or summary listings). These documents or listings will show the following:

- (1) Performing installation and document number.
- (2) Ordering installation and document number.
- (3) Dollar value of billing (indicate partial, final, or complete billing).
- (4) Date material was dropped from inventory or delivered to a carrier, if applicable.
- (5) Line item identification on order.
- (6) Movement designator code for military or commercial carrier, if applicable.
- (7) Quantity and unit price, if applicable.
- (8) Collection accounting classification.

j. Other data requirements to support SF 1080/SF 1081 or the computer equivalent are as follows:

(1) Where applicable, provide distribution of costs for personal services, material from stock issues, and pro-rata distribution of overhead charges. Where accumulated costs are not maintained, the charges will be detailed on the face of the voucher or supporting documents. The supporting documents may be in the form of shipping documents, itemized statements, or mechanized listings.

(2) For material issued from stock, show the notation "Issues from Stock" on the SF 1080/SF 1081/computer equivalent bill.

(3) For billings to DOD customers, include a memorandum of the military personnel costs.

(4) Meals served to enlisted personnel of other U.S. military services, who are entitled to be fed at Government expense in appropriated dining facilities, will be provided on a common service basis without reimbursement. This includes meals served in dining facilities operated by The Surgeon General.

k. Do not prepare separate billing vouchers applicable to one customer for each shipment made or service furnished. When recurring shipments or charges are made, consolidate on one billing document, monthly. Suspend billings when the amount to be billed to another DOD activity is less than \$100 at the end of a billing cycle. Such amounts will be accumulated and billed when the total amount reaches \$100 or at the end of the fiscal quarter, whichever occurs first.

l. If billing is based on constructive delivery, the bill will contain the following statement: "Material billed herein was delivered to a carrier as indicated on (shipping documents) for subsequent delivery to (address)."

m. Distribute bills (other than interfund) as follows:

(1) No-check-drawn transactions (SF 1080/SF 1081 or computer equivalent)—all copies to the cashier.

(2) SF 1080 or computer equivalent bill and DA Form 1857 transactions:

- (a) Original and two copies to customer.
- (b) One copy to the cashier to be retained pending receipt of payment.
- (c) One copy retained in the Accounting Branch.
- (d) Copy of SF 1080 or computer equivalent bill received from the office billed, for which a check for payment is attached, will be annotated "collection voucher" and used as the original collection voucher to support the Statement of Accountability of the billing office.

n. Direct shipments financed under reimbursable procurement from commercial sources will be considered as having been shipped from stock. Bill such shipments in the same manner as shipments from stock except for—

(1) *Origin acceptance.* Bill for material accepted by an inspector at a commercial plant, and simultaneously shipped direct to the ordering activity, on the basis of documents received from the inspector who accepted the property of the Government.

(2) *Destination acceptance.* Bill for material shipped directly from a commercial vendor to an ordering activity for acceptance at destination on the basis of the documents received from the ordering activity showing acceptance of the material.

o. The following rules apply for billing adjustments:

(1) For short or damaged shipments, the ordering activity will initiate action to obtain billing adjustments for shipments within DOD. Do not initiate action within DOD when loss or damage is less than \$250 per line item. The ordering agency must absorb these costs. This authority does not relieve ordering activities of the requirement for report of survey action to adjust property accountability when specified in AR 735-11-1 and AR 735-11-2. The performing activity will normally determine the validity of claims submitted by ordering activities within DOD for losses attributable to the performing activity. For losses exceeding \$250 per line item, when the ordering activity does not accept the decision of the performing activity regarding settlement of claims for losses, the ordering activity may appeal the decision through its MACOM to the Director of Finance and Accounting, ATTN: SAFM-FAP-A, Indianapolis, IN 46249-1026 or to the Defense Supply Agency, as appropriate.

(2) Requests from customers outside DOD for billing adjustments for shortages, damages, or defects in shipments of less than \$100 per line item will not be allowed.

(3) Claims of less than \$250 per bill for a transaction not arising from shortages, damages, or defects in shipments (for example, incorrect billing) will be absorbed by the ordering activity.

(4) When NAFIs are billed, payment will be made only if material has been received. Where nonreceipt is alleged by the ordering activity, billing adjustments may be made. The ordering activity may appeal any adverse decision of the performing activity without regard to dollar limitation.

p. If SF 1080 or its computer equivalent requires a payment by check (for example, USACE Civil Funds), the billed office will examine the bill to determine that correct amounts have been charged and that the required information is furnished. If the billing document is proper, the billed office will complete the voucher by executing (signing) the "Certificate of the Office Billed" and inserting the accounting classification to be charged. A check will be prepared in the amount of the bill and forwarded to the billing office, together with a copy of the SF 1080 or its computer equivalent marked "Collection Copy." File copies of receiving reports, receipted invoices, shipping documents, or summary listings with the retained copies of the bill.

q. For "no-check-issued" SF 1080 or its computer equivalent, the billing office will execute the "Certificate of the Office Billed." Where material is furnished, the certificate may be executed on the basis of constructive delivery or drop from inventory, as appropriate. "No Check Drawn" will be marked in the "Paid By" portion of the voucher. The voucher will be processed through the accounting system as a "Transaction for Others" or as a "Cross Disbursement for Others." Furnish copies to billing offices if they are separate from the finance and accounting office. A copy of the voucher annotated "Collection Voucher" will be used as the original collection voucher and processed with the finance and accounting officer's accounts. Forward a copy of the SF 1080 or its computer equivalent, with the required supporting documentation, to the FAO whose accounts are being charged. See chapter 21 for TFO/TBO and cross-disbursing procedures.

17-11. Accounting for reimbursements for business development expenses (BDEs)

a. BDE represents the difference between the contract price and the price required on the open market for contracts negotiated by the Small Business Administration (SBA) under Section 8 (a) of the Small Business Act. Contracting agencies pay the contractor the full contract price for delivered goods/services and recover from the SBA that portion of the contract price identified as BDE. The recovered amount increases funds available for the contracting agencies.

b. When Section 8 (a) contracts are awarded, the FAO will establish an automatic reimbursable order for the full amount of BDE under the contract. At the same time, the FAO records an

earning and submits an SF 1080 bill and a copy of the contract to the SBA for that amount. The SF 1080 will cite the contract number, applicable funding citation, and the purpose for which the funds are requested. Mail the SF 1080 to Small Business Administration, Office of Financial Operations, Fiscal Examination Branch, P.O. Box 660, Denver, CO 80201-0660.

c. Credit BDE advances received that are over \$1,000 to special advance account 946 (see AR 37-100-FY). Record advances received for \$1,000 or less as revenue and collect into the appropriate reimbursable accounting classification.

d. Except as provided in paragraph b above, recognize earnings as performance deliveries are made against the contract. FAOs will identify all earnings associated with BDE advances to ensure proper clearance of the advance from project account 946.

e. Ensure that any BDE collected in advance is actually earned. Upon contract completion or expiration, furnish the SBA an accounting of BDE collections/earnings. Reflect any adjustments on an SF 1080 and record them in the accounting records.

17-12. Foreign currency fluctuation procedures

a. If the ordering activity is within DOD and the performing activity is incurring obligations that will be paid in one of the foreign currencies designated in AR 37-100-FY, the performing activity notifies the ordering activity of the amount paid at both the budget rate and the actual exchange rate. If the ordering activity is using direct funds authorized to use foreign currency fluctuation procedures, the ordering activity records the budget rate portion against the funding appropriation and charges or credits the disbursement variances to the applicable CMA account described in AR 37-100-FY. If the ordering activity is using reimbursable funds, it will pass the information to its customer.

b. When reimbursements are received from an ordering activity whose funding appropriation is authorized to use foreign currency fluctuation procedures, and the reimbursements are to be credited to an appropriation authorized to use these procedures, reimbursement is required to the foreign currency fluctuations CMA account as well as to the appropriation the performing activity used to fund the work. For example—

(1) The performing activity bills military family housing for indirect foreign national labor at the current exchange rate. This labor cost has already been charged to OMA at the budget rate during the payment of the payroll, and the gain/loss was charged to the Foreign Currency Fluctuation Defense CMA account.

(2) As a result of the current billing for the indirect labor chargeable to military family housing (the ordering activity), a charge is made to family housing at the budget rate. The gain or loss is charged to the Foreign Currency Fluctuation Construction Defense CMA account.

(3) On receipt of the reimbursement from family housing, reimburse the Foreign Currency Fluctuation Construction Defense CMA and account for the gain or loss.

Table 17-1
Year-end adjustments of reimbursable orders

Performers financing appropriations	Year-end action required
No-year	None
Annual at expiration	Reduce orders received to amounts obligated. Reestablish valid portions of orders in the new appropriation, providing customers' funds have not expired.
Annual following year of expiration	Adjust orders to amounts obligated, but not in excess of amount authorized on order.
Multiyear	General rule: reimbursable orders received that have not been obligated (for both expiring and unexpiring accounts) will be written down to the greater of obligations or earnings. ¹ For expiring years, orders earned for which no obligation has been incurred will be written off and the related receivable and subsequent collections will be moved to the miscellaneous receipt account. Specific rules:

MILITARY INTERDEPARTMENTAL PURCHASE REQUEST				PAGE 1 OF 1 PAGES		
2. FSC	3. CONTROL SYMBOL NO.	4. DATE PREPARED 30 December 1988	5. MIPR NUMBER W537RQ-9-01	6. AMEND NO. Initial		
7. TO: General Services Administration Region 5 Data Services Division Chicago, IL 60604			8. FROM: (Agency, name, telephone number of originator) Commander U.S. Army Soldier Support Center ATSG-DCD-PMC Ft. Benjamin Harrison, IN 46216-5005			
9. ITEMS <input type="checkbox"/> ARE <input checked="" type="checkbox"/> ARE NOT INCLUDED IN THE INTERSERVICE SUPPLY SUPPORT PROGRAM AND REQUIRED INTERSERVICE SCREENING <input checked="" type="checkbox"/> HAS <input type="checkbox"/> HAS NOT BEEN ACCOMPLISHED.						
ITEM NO.	DESCRIPTION (Federal stock number, nomenclature, specification and/or drawing No., etc.)	QTY	UNIT	ESTIMATED UNIT PRICE	ESTIMATED TOTAL PRICE	
1	<p>Prepare and deliver a computer drive simulation to provide the supply, processing, training and equipping requirements for a variety of given demands. The model is intended to predict the potential of the training base to meet the demand for personnel as individuals and units.</p> <p>Preparation and delivery of model will require vendor to prepare, program, and demonstrate the model; document the model and its operation in a user's manual; provide training to users; and deliver report and software (5 copies). Further information contained in attached statement of work.</p> <p>This Economy Act order is placed in accordance with the provisions of AR 37-1/DODI 7220.9M</p> <p>Request copies of all billings be sent to: (See Block #8) POC for this order is: John Doe AUTOVON 123-4567/Commercial 317-543-4567</p>	1		\$225,000.	\$225,000.	
10. SEE ATTACHED PAGES FOR DELIVERY SCHEDULES, PRESERVATION AND PACKAGING INSTRUCTIONS, SHIPPING INSTRUCTIONS AND INSTRUCTIONS FOR DISTRIBUTION OF CONTRACTS AND RELATED DOCUMENTS.				11. GRAND TOTAL \$225,000.		
12. TRANSPORTATION ALLOTMENT (Used if FOB Contractor's plant)			13. MAIL INVOICES TO (Payment will be made by) Finance and Accounting Office; ATTN: ARFM-FA-A (Accounts Payable); Ft. Benjamin Harrison 46216-5000 PAY OFFICE DDDAAD W537RQ			
14. FUNDS FOR PROCUREMENT ARE PROPERLY CHARGEABLE TO THE ALLOTMENTS SET FORTH BELOW, THE AVAILABLE BALANCES OF WHICH ARE SUFFICIENT TO COVER THE ESTIMATED TOTAL PRICE.						
ACRN	APPROPRIATION	LIMIT SUBHEAD	SUPPLEMENTAL ACCOUNTING CLASSIFICATION		ACCTG STA DDCAAD	AMOUNT
	2192020	0000	57-8307 P871713.11 252H MIPR0000008901		S12102	\$225,000.
15. AUTHORIZING OFFICER (Type name and title) John Doe, Dir DCD		16. SIGNATURE /s/		17. DATE 30 Dec 88		

DD, FORM 448
JUN 72

PREVIOUS EDITION IS OBSOLETE.

Figure 17-1. Sample of DD Form 448—Military Interdepartmental Purchase Request

Completion instructions by number

(1) Enter the address of the requiring/requesting activity (the same as that in block 8 of DD Form 448).

(2) Enter the MIPR number (the same as that in block 5 of DD Form 448).

(3) Enter the amendment number (the same as that in block 6 of DD Form 448).

(4) Enter the signature date (the same as that in block 17 of DD Form 448).

(5) Enter the amount (the same as that in block 11 of DD Form 448).

(6) Check the appropriate block. NOTE: The acceptor/performer of the MIPR may accept the order as a reimbursable order or a direct fund cite, or may split order between reimbursable order and a direct fund cite. Acceptance as a direct fund cite is preferred. It is important that orders be negotiated before they are issued/accepted.

(7) Check if applicable; enter comment/reasons in block 13.

(8) In blocks 8a through 8c (self-explanatory) enter the appropriate data if accepted through reimbursement.

(9) In blocks 9a through 9c (self-explanatory) enter the appropriate data if accepted as a direct fund cite. NOTE: It is recommended that the requiring/requesting activity issue a message/letter using a direct fund cite instead of the MIPR.

(10) Self-explanatory.

(11) Enter the grand total estimated price of all items. NOTE: If grand total differs from that in block 11 of DD Form 448, notify the requiring/requesting activity, which will require an amendment.

(12a) Check if applicable and enter the additional dollar amount needed. Show justification in block 13.

(12b) Check if applicable and enter amount that is no longer required and to be withdrawn by the requiring/requesting agency. When this block is filled out and returned to the requiring/requesting agency, that agency will not require a change order. On receipt of DD Form 448-2 with block 12b checked and amount shown, adjust obligations accordingly.

(13) Enter remarks, if applicable. (Enter the appropriate statement if order is an Economy Act order or a project order.) Give a POC in case the requiring/requesting activity has questions.

(14) Enter the complete address of the accepting activity.

(15) Enter the name (typed or printed) of the authorized official accepting the order.

(16) The authorized official accepting the order will sign here.

(17) Enter date the DD Form 448-2 is signed.

ACCEPTANCE OF MIPR					
1. TO (Requiring Activity Address) (Include ZIP Code) Commander, USASSC (ATSG-DCD-PMC) Ft. Benjamin Harrison, IN 46216-5005		2. MIPR NUMBER W537RQ-9-01		3. AMENDMENT NO. Initial	
4. DATE (MIPR Signature Date) 30 December 1988			5. AMOUNT (As Listed on the MIPR) \$225,000.		
5. The MIPR identified above is accepted and the items requested will be provided as follows: (Check as Applicable)					
a. <input checked="" type="checkbox"/> ALL ITEMS WILL BE PROVIDED THROUGH REIMBURSEMENT (Category I)					
b. <input type="checkbox"/> ALL ITEMS WILL BE PROCURED BY THE DIRECT CITATION OF FUNDS (Category II)					
c. <input type="checkbox"/> ITEMS WILL BE PROVIDED BY BOTH CATEGORY I AND CATEGORY II AS INDICATED BELOW					
d. <input type="checkbox"/> THIS ACCEPTANCE, FOR CATEGORY I ITEMS, IS QUALIFIED BECAUSE OF ANTICIPATED CONTINGENCIES AS TO FINAL PRICE. CHANGES IN THIS ACCEPTANCE FIGURE WILL BE FURNISHED PERIODICALLY UPON DETERMINATION OF DEFINITIZED PRICES, BUT PRIOR TO SUBMISSION OF BILLINGS.					
7. <input type="checkbox"/> MIPR ITEM NUMBER(S) IDENTIFIED IN BLOCK 13, "REMARKS" IS NOT ACCEPTED (IS REJECTED) FOR THE REASONS INDICATED.					
8. TO BE PROVIDED THROUGH REIMBURSEMENT CATEGORY I			9. TO BE PROCURED BY DIRECT CITATION OF FUNDS CATEGORY II		
ITEM NO. a	QUANTITY b	ESTIMATED PRICE c	ITEM NO. a	QUANTITY b	ESTIMATED PRICE c
1	1	\$225,000.			
d. TOTAL ESTIMATED PRICE		\$225,000.	d. TOTAL ESTIMATED PRICE		
10. ANTICIPATED DATE OF OBLIGATION FOR CATEGORY II ITEMS			11. GRAND TOTAL ESTIMATED PRICE OF ALL ITEMS \$225,000.		
12. FUNDS DATA (Check if Applicable)					
a. <input type="checkbox"/> ADDITIONAL FUNDS IN THE AMOUNT OF \$ _____ ARE REQUIRED (See justification in Block 13)					
b. <input type="checkbox"/> FUNDS IN THE AMOUNT OF \$ _____ ARE NOT REQUIRED AND MAY BE WITHDRAWN					
13. REMARKS					
14. ACCEPTING ACTIVITY (Complete Address) GSA Region 5 DA&A Services Div., Chicago, IL 60604-3004			15. TYPED NAME AND TITLE OF AUTHORIZED OFFICIAL Jack Doe		
			16. SIGNATURE /s/		17. DATE 13 Jan 89

DD FORM 448-2
1 JUL 71

PREVIOUS EDITION WILL BE USED UNTIL EXHAUSTED.

* U.S.G.P.O.: 1987 - 181-032/60818

Figure 17-2. Sample of DD Form 448-2—Acceptance of MIPR

Completion instructions by number

- (1) Office, department establishment, or bureau receiving funds.
- (2) Address of the office charged—should be address of paying FAO.
- (3) MIPR number, reimbursable order number, delivery order number, etc.
- (4) Date of delivery, if applicable.
- (5) Description of services or itemization of bill.
- (6) Quantity, if applicable.
- (7) Unit price cost, total, if applicable.
- (8) Unit price, cost per unit.
- (9) Amount.
- (10) Address where remittance/payment is to be sent. Include a telephone number and the payment due date.
- (11) Accounting classification of office receiving funds.
- (12) Certification statement of office charged—original signature required.
- (13) Accounting classification of office charged.
- (14) Number of check provided by the remitter.
- (15) Voucher number—provided when check payment is made.
- (16) Voucher schedule number—internal to the disbursing office.
- (17) Bill number of the SF 1080.
- (18) Self-explanatory.
- (19) For collection with collection voucher number—SF 1080 is marked for collection when check is received. DD Form 1131 (Cash Collection Voucher) should not be used when check is received for collection.

Standard Form 1080 Revised April 1987 Department of the Treasury TFRM 2-2500 1080-109-08		VOUCHER FOR TRANSFERS BETWEEN APPROPRIATIONS AND/OR FUNDS		VOUCHER NO. 915716 15		
Department, establishment, bureau, or office receiving funds Department of the Army 1 Office of Financial Management		SCHEDULE NO. 16 1366		BILL NO. A0001 17		
Department, establishment, bureau, or office charged • Finance & Accounting Office • 2 U.S. Army Engineer District Savannah P. O. Box 889 Savannah, GA 31402		PAID BY DSSN 18 1234 District Eng. Savannah, GA 31402 17 Jan 1989				
ORDER NO.	DATE OF DELIVERY	ARTICLE OR SERVICES	QUAN-TITY	UNIT PRICE		AMOUNT DOLLARS AND CENTS
				COST	PER	
3 MIPR-IA0294	4	Transportation expenses for John Doe from Savannah, GA to Indianapolis, IN and return. At the request of District Engineer Savannah in conjunction with reimbursable order. 5 Payment Due Date: 27 Jan 89	6	7	8	9 516.29
			TOTAL		516.29	
Remittance in payment hereof should be sent to— 10 Department of the Army Division of Financial Management Office Financial Operation (Tel #123-4567) Indianapolis, IN 46249-0001						
ACCOUNTING CLASSIFICATION—Office Receiving Funds						
2192020.0000 38-8301 878716.60 211J/2119 MIPRCOEIA0294F AY33 S12102 11						
CERTIFICATE OF OFFICE CHARGED						
I certify that the above articles were received and accepted or the services performed as stated and should be charged to the appropriation(s) and/or fund(s) as indicated below; or that the advance payment requested is approved and should be paid as indicated.						
13 Jan 1989 12 (Date)		Mary Doe (Authorized administrative or certifying officer) Chief of Financial Services (Title)				
ACCOUNTING CLASSIFICATION—Office Charged						
96X3124, GE, CE, Civil 13 EA6026100008803(DA) S96490						
Paid by Check No. 123456789 14						

Figure 17-3. Sample of SF 1080—Voucher for Transfers Between Appropriations and/or Funds

PREPARED 31 MAY 88 (1)
 D.O. VOUCHER NO. (3) BU VOUCHER NO. (4) CUST ID (5) VOUCHER FOR TRANSFER BETWEEN APPROPRIATIONS AND/OR FUNDS (2) AS OF 31 MAY 88
 PAID BY CHECK NO. (6) COLLECTION VOU. NO. (7)

33F 'NO CHECK DRAWN' (8) ACCOUNT OF

(9) BILLED OFFICE (MAIL TO):
 'BILL TO ADDRESS-COMplete WITH ZIP CODE'

(10) BILLING OFFICE (SEND REMITTANCE TO):
 'COMPLETE BILLING OFFICE ADDRESS TO INCLUDE ZIP CODE'

(11) CUST NBR	(12) BILL NBR	(13) REF NBR	(14) REF DATE	(15) BILLING ACCOUNTING CLASSIFICATION	(17) COLLECTION AMOUNT	(18) DISBURSEMENT AMOUNT
33F098	A0000			21 82020 0000 057 7 0F00 810000 S012102	\$860.00	
				(16) BILLED ACCOUNTING CLASSIFICATION SUB-TOTAL		\$ 860.00
33F018	A0000			21 82020 0000 057 7 0F00 810000 S012102	\$6,578.00	
33F028	A0000			21 82020 0000 057 7 0F00 810000 S012102	\$15,588.00	
33F038	A0000			21 82020 0000 057 7 0F00 810000 S012102	\$1,396.00	
33F048	A0000			21 82020 0000 057 7 0F00 810000 S012102	\$522.00	
33F058	A0000			21 82020 0000 057 7 0F00 810000 S012102	\$12,016.00	
33F068	A0000			21 82020 0000 057 7 0F00 810000 S012102	\$21.00	
33F078	A0000			21 82020 0000 057.7 0F00 810000 S012102	\$9,322.00	
33F088	A0000			21 82020 0000 057 7 0687 720000 S012102	\$160.00	
				BILLED ACCOUNTING CLASSIFICATION SUB-TOTAL	8 0	\$ 45,603.00

PAY THIS AMOUNT (19) \$46,463.00

(20) CERTIFICATE OF OFFICE BILLED
 I CERTIFY THAT THE ABOVE ARTICLES WERE RECEIVED AND ACCEPTED OR THE SERVICES PERFORMED AS STATED AND SHOULD BE CHARGED TO THE APPROPRIATION(S) AND/OR FUND(S) AS INDICATED ABOVE; OR THAT THE ADVANCE PAYMENT REQUESTED IS APPROVED AND SHOULD BE PAID AS INDICATED.

 AUTHORIZED ADMINISTRATIVE OR CERTIFYING OFFICER

 TITLE

FOR USE IN LIEU OF SF 1080

Completion instructions by number

- | | | |
|---|--|---|
| (1) Date prepared—system generated. | (8) Brief block stamp of the accountable office. | (15) Billing accounting classification. |
| (2) End of billing period date. | (9) Mail-to address or billed-to office address. | (16) Billed accounting classification. |
| (3) Disbursing office voucher number. | (10) Mailing address of FAO to receive check payment or address of credit for no-check-drawn bill. Provide telephone number. | (17) Collection amount. |
| (4) Bureau voucher number. | (11) Customer order number. | (18) Disbursement amount. |
| (5) Customer identification number. | (12) Bill number. | (19) Amount to be paid or amount charged. Provide payment due date (DDMMYY) to the left of "PAY THIS AMOUNT." |
| (6) Check number or "no check drawn," as applicable. | (13) Reference number. | (20) Certifying officer statement and signature for office billed. |
| (7) Collection voucher number—used when check is received. DD Form 1131 is not used on receipt of check. Billing document is also used as a collection voucher. | (14) Reference date. | |

Figure 17-4. Sample of a mechanized (electronic) SF 1080—Voucher for Transfers Between Appropriations and/or Funds

Army Regulation 37-20

Financial Administration

Administrative Control of Appropriated Funds

Headquarters
Department of the Army
Washington, DC
30 May 1985

When allocations, suballocations, or allotments are issued, the commander at each funding echelon will provide enough funds to cover the obligations incurred under previous authorities. Authorities granted pending receipt of normal funding documents expires upon receipt of these documents. Charge obligations previously incurred under interim authorities to obligate promptly against allotments that apply. Thereafter, obligation will not be incurred in excess of the remaining unobligated balances. When there are no funds to cover obligations, a report of alleged violation is required.

c. An obligation authority granted by any document other than a DA Form 1323-1 (Program and Funding Authorization Schedule) is not usually considered to be a subdivision of funds under R-S-367931 USC 1513d unless—

(1) A specific provision of law limits the amount of funds allowed for the purpose,

(2) It is specifically prescribed by ARs and is identified as an absolute limitation under 31 USC 1513d, or

(3) The document contains a positive statement such as, "obligations incurred under this authority will not exceed \$ without either prior written approval of the issuer or an amendment to this authority."

d. Any overobligation or overexpenditure that results from issuing an obligation authority not limited as prescribed is the issuer's responsibility.

1-9. Reimbursable orders

a. The obligation authority created by reimbursable orders received will not be administered or accounted for as a subdivision of funds under R-S-3579. However, it will be merged with and augment the allotment (or other subdivision) being obligated. Do not administer or account for fund availability created by reimbursable orders received as separate subdivisions of funds under 31 USC 1513d. These funds augment the allotments (or other subdivisions) being obligated in performing the work or service. R-S-367931 USC 1517 is not violated if applicable obligations, costs, or expenditures incurred by the performing fiscal entity exceed the amount stated in a single reimbursable order but the total obligation authority of the performing fiscal entity or subdivision may not be exceeded.

b. Reimbursable orders (including appropriate amendments thereto) issued for work or services done on a cost-reimbursable basis will contain a cost ceiling for billing purposes. This limits the liability of the ordering activity if costs incurred by the performing activity exceed that ceiling.

c. When the use of automatic reimbursement procedures has been specifically authorized in applicable funding documents, the amount of obligation authority may be augmented by the total amount of all orders received and any subsequent adjustments.

d. Obligation authority to finance expected reimbursements (funded and automatic) is normally specifically included in

funding documents. Funding reimbursement authority is identified by the amount available for the reimbursable work or services (funded reimbursement authority).

Determine the obligation authority available to the recipient will be decided by the following formula: Total amount allocated, allotted, etc., less amount identified as anticipated funded reimbursement authority, plus total amount of applicable reimbursable orders received. (Orders received must not exceed the funded reimbursement amount.) Any excess orders received and accepted will not augment the total funds available. When automatic reimbursement procedures are also authorized in the funding document, all automatic orders received will further increase available funds.

e. Reimbursable orders received from State, local, or foreign governments; commercial enterprises (to include nonappropriated funds corporations); or persons are subject to special controls. These orders, except Foreign Military Sales (FMS) orders, will be recognized as reimbursable orders received only to the extent that cash has been received and deposited with the Treasury. FMS orders may be recognized as contract authority in the FMS Trust Fund. They may, in turn, be released to performing Army activities although cash has not been received. However, disbursement controls must be established to insure that disbursements are not made until the cash is actually deposited in the FMS Trust Fund and transferred to the appropriation account, or an expenditure authorization has been received from the holder of the FMS Trust Fund.

(1) Increase available funds resulting from these orders (except Foreign Military Sales (FMS) orders) only to the extent that—

(a) Cash has been received and deposited with the Treasury,

(b) Entitlement to reimbursement is based on goods or services to be furnished under emergency conditions, or

(c) The reimbursements have been earned.

(2) Recognize FMS orders as contract authority in the FMS Trust Fund and release them to performing Army activities although cash has not been received. Establish controls to ensure that disbursements are not made until the cash is actually deposited in the FMS Trust Fund and transferred to the proper appropriation, or an expenditure authorization has been received from the FMS Trust Fund holder.

1-10. Open allotments

a. General operating agencies may establish open allotments for activities and projects approved by the Office, Comptroller of the Army (OCA) when it is determined that specific allotments would be impractical.

b. Requests for approval to establish an open allotment will be fully justified, including must include—

(1) The need for the open allotment,

(2) Possible alternatives, and

(3) Clear evidence that the open allotment is the most practical procedure.

c. The head of the general operating agency is responsible for the administration of each open allotment. He or she will prescribe an adequate system of control (financial and nonfinancial), including—

(1) Designation of specific positions or persons authorized to incur obligations against each open allotment;

(2) Suitable limitations on the numbers, quantities, or volume for which obligations may be incurred; and

(3) Requirements for accounting and reporting. This will insure timely and sufficient notice to the head of the general operating agency, other interested agencies, and the COA in the event that preventive measures might be needed to avoid overobligation or overexpenditure. (Preventive action may include requesting an increase in the amount of the open allotment, terminating the open allotment, or other similar actions.)

d. If an overobligation or overexpenditure occurs in any subdivision of funds administered under an open allotment, the head of the general operating agency establishing the allotment is responsible for the possible violation.

e. When a Deputy or Assistant Chief of Staff or the head of any DA staff agency controls a program financed under an open allotment, he or she is responsible for administrative control of the allotment. This includes keeping the program within overall fund availability and taking any action needed to prevent overobligation or overexpenditure.

f. The total amount of specific and open allotments issued will not exceed the amount of the allocation or suballocation which applies.

1-11. Cross-servicing reimbursements

Account for and control obligation authorities created by cross-service reimbursable orders will be accounted for and controlled in the same manner as other reimbursable orders.

1-12. Control of obligations and expenditures

a. Do not authorize or incur obligations or expenditures will not be authorized or incurred in excess of available funds or any statutory or administrative limitation.

b. Commanders to whom funds are distributed will establish and maintain effective control over these funds to prevent overdistribution, overobligation, overexpenditure, or the exceeding of any applicable statutory or administrative limitation.

1-13. Control of revolving funds

a. General obligation and expenditure of revolving funds will be controlled by designated officials of DA. These officials will—Designated DA officials will control obligation and expenditure of revolving funds. They will—

Volume I



**TREASURY
FINANCIAL MANUAL**

Financial Management Service

Department of the Treasury

U
1 TFM 2-2500

CHAPTER 2500 - EXPENDITURE TRANSACTIONS BETWEEN APPROPRIATION, FUND, AND RECEIPT ACCOUNTS

Section 2510 - SCOPE AND APPLICABILITY

This chapter provides instructions for completing transactions between two or more different appropriation, fund, and receipt accounts classified as expenditure transactions. These transactions include: (1) withdrawals and credits between accounts; (2) all transfers between budgetary and nonbudgetary accounts; (3) annual travel advance adjustments; (4) adjustments to correct errors in expenditure transactions; and (5) withdrawals and credits between accounts not specifically defined as "nonexpenditure transactions."

Two different procedures for processing expenditure transactions are prescribed: (1) a procedure for completing withdrawal and credit transactions without sending a check to the agency receiving credit (I TFM 2-2540); and (2) a procedure for transactions where payment by check is required (I TFM 2-2550). Treasury checks will not be used as a payment method between agencies that can accept a transfer by using SF 1081 "Voucher and Schedule of Withdrawals and Credits" (I TFM 2-2540).

This chapter does not address withdrawals and credits of the following types: (1) nonexpenditure transactions or any adjustment of such transactions (I TFM 2-2000), or (2) simultaneous charges and collections of intragovernmental transactions under the Simplified Intragovernmental Billing and Collection (SIBAC) System (I TFM 6-5000).

Section 2520 - TYPES OF EXPENDITURE TRANSACTIONS ADDRESSED IN THIS CHAPTER

The term "expenditure transactions," as used in this chapter, means withdrawal from one account and credit to another account when both sides of the transaction will be recorded in the central accounts of the Financial Management Service as an expenditure and repayment or receipt as stated below.

2520.10 - Payments to Other Appropriations and Funds as Reimbursements or Advances. These transactions result in the merger of funds in a receiving account. Payments made in this type of transaction usually liquidate obligations for goods and services, which further the purpose of the paying account. Reimbursements or advances of this type are made under authority of Section 601 of the Economy Act, 31 U.S.C.

686, or other provisions of law where the merger of funds in an appropriation or revolving fund is authorized even though there are no specific orders involved. These include:

- Payments for Reimbursable Goods and Services. These are payments made by one account as a reimbursement to another account for goods and services that have been provided on a reimbursable basis. Reimbursements for goods and services provided by one agency to another should be made promptly after delivery on the basis of invoices rather than by advance payments.
- Advance Payments Required by Law. These transactions are required by a specific law, by which a determined amount is to be transferred from one agency and merged with a specific account of another agency. The amount is payment in advance for goods and services that will be provided by the second agency.
- Advance Payments to Certain Revolving and Working Capital Funds. These are transactions authorized by law, by which certain revolving and working capital funds are permitted to request payment for goods and services in advance of delivery. These advances represent a liability of the revolving or working capital fund pending delivery of the goods and services.
- Advance Payments to Management Funds. Management fund accounts are authorized by specific laws to receive advances from appropriations to ease accounting for and administration of intragovernmental activities. These accounts are classified either as annual or no-year accounts, depending on the circumstances.
- Advance Payments to Consolidated Working Funds. Advances for goods and services to be provided within the same fiscal year by the performing agency through use of its own facilities may be made to "consolidated

working fund" accounts of the performing agency under Section 601 of the Economy Act, 31 U.S.C. 686. This method of financing reimbursement for goods and services provided by one agency to another should be used only in instances where arrangements for current billings and reimbursements would be impractical.

2520.20 - Transactions Between Budgetary and Nonbudgetary Accounts. Transactions representing withdrawals and credits between a deposit fund account and an account in any other fund group will be classified as expenditure transactions.

2520.30 - Annual Travel Advance Adjustment. Adjustments between the prior and current year appropriation for the amount of outstanding travel advances are expenditure transactions to be charged to the current year's appropriation. These adjustments are treated in the central accounts of Treasury as repayments and expenditures, respectively.

Section 2530 - PAYMENTS TO GENERAL SERVICES ADMINISTRATION (GSA)

The majority of GSA billing is accomplished under SIBAC (I TFM 6-5000). However, when SIBAC is not used, GSA Form 789 "Statement, Voucher, and Schedule of Withdrawals and Credits" is the form most frequently used by GSA to bill agencies for materials and services (Appendix No. 1). Caution should be exercised by the paying office to show the Agency Location Code (ALC) on this document (I TFM 2-3320). Agencies currently required to make payment by check will process the payment of the billing document through their related disbursing officers according to established disbursement procedures. Agencies within the Treasury disbursing area will follow the revised procedures stated in I TFM 2-2540 and process GSA Form 789 in the same manner as an SF 1081.

Section 2540 - EXPENDITURE TRANSACTIONS NOT REQUIRING PAYMENT BY CHECK

This section applies to transactions that affect only ALC's of the departments and agencies for which Treasury financial centers disburse, and that can be accomplished without the use of a check or the payment of funds from Treasury.

2540.10 - Expenditure Transactions and Adjustments Processed Entirely Within an ALC. Optional Form 1017-G "Journal Voucher" or other agency approved journal voucher form (Appendix No. 1) will be used to effect expenditure withdrawals and credits or adjustments between appropriation, fund, and receipt accounts when the transactions affect only the ac-

count of the same ALC. The expenditure withdrawals and credits or adjustments covered by Optional Form 1017-G or other journal voucher form will be included in the SF 224 "Statement of Transactions" provided to the Financial Management Service. This adjustment journal voucher form will not be sent to Financial Management Service.

2540.20 - Expenditure Transactions and Adjustments Between Agencies Within the Treasury Disbursing Area. The SF 1081 is prescribed for use as a combined billing and payment document for interagency payment transactions by agencies within the Treasury disbursing area (i.e., agencies that report on SF 224 "Statement of Transactions") to process expenditure withdrawals and credits between appropriation, fund, and receipt accounts (Appendix No. 1). A suggested print layout of a computerized version of SF 1081 (SF 1081-EDP) which is for Governmentwide use, is also in Appendix No. 1. When an SF 1081 is appropriate for use, neither an SF 1166 "Voucher and Schedule of Payments," nor a Treasury check will be used to effect the transaction.

2540.25 - SF 1081 "Voucher and Schedule of Withdrawals and Credit." The SF 1081 will be used by agencies within the Treasury disbursing area to conduct interagency expenditure transactions. The form is a four-part, prenumbered accounting document that is distributed as follows:

"Original" -	Send to customer for payment.
"Duplicate Copy" -	Send to customer for retention.
"Triplicate Copy" -	Send to customer, who will return to billing office after certification as the paid copy.
"Quadruplicate Copy" -	Retained by billing office as pending.

2540.30 - Interagency Business Transactions. Agencies that conduct frequent and repetitive monthly business transactions via agreements or memoranda of understanding are urged to retain those agreements or understandings under SF 1081 processing. Where such agreements do not exist, but would ease processing, it is suggested that the agencies conclude such agreements among themselves.

2540.40 - Responsibilities of the Billing Agency. The billing agency must bill via the SF 1081. The billing agency must insure accuracy of billing documents to avoid disputes and errors. The billing agency must also insure that

Encl 6

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
June 17, 1991

ENCLOSURE 6

WETLAND VALUE ASSESSMENT METHODOLOGY

Encl 6

DRAFT

COASTAL WETLAND PLANNING, PROTECTION AND RESTORATION ACT

Project Ranking Procedure

Wetland Value Assessment Methodology

Introduction

The Wetland Value Assessment (WVA) methodology was developed as a uniform and quantitative habitat-based assessment methodology for use in prioritizing project proposals submitted under the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA). The WVA takes into account changes in habitat quality and quantity that are projected to be brought about as a result of a proposed project. The results of the WVA, measured in Average Annual Habitat Units (AAHU's), will be combined with pertinent engineering and economic data to provide a measure of the effectiveness of a proposed project in terms of cost per AAHU gained.

The WVA was developed by the personnel of the U.S. Fish and Wildlife Service's Lafayette Field Office, with extensive participation and/or input from all agencies represented on the CWPPRA Task Force. The final form of the methodology was dictated largely by the short time frame under which projects proposed for 1991 need to be identified, evaluated, ranked, and submitted to Congress. Therefore, the selected methodology had to be developed quickly and it had to be easily applied using available data.

WVA Development

The WVA is a modification of the Habitat Evaluation Procedures (HEP) developed by the U.S. Fish and Wildlife Service. HEP is widely used by the Fish and Wildlife Service and other Federal and State agencies in evaluating the impacts of development projects on fish and wildlife resources. HEP is based on species-oriented Habitat Suitability Index (HSI) models. However, the WVA utilizes community models developed for each of four coastal Louisiana wetland types: swamp, fresh/intermediate marsh, brackish marsh, and saline marsh. The WVA assumes that optimal conditions for a coastal wetland type can be characterized and that any wetland condition can be compared to the optimum to provide an index of wetland quality. The WVA was developed strictly for use in ranking proposed projects; it is not intended to provide a detailed, comprehensive methodology for establishing baseline conditions within a project area.

WVA community model development consisted of first selecting habitat variables for describing wetland quality. Initial variables were selected by consulting established HSI models (published for use in HEP) for species known to occur in the various coastal wetland types being evaluated. A variable had to satisfy three criteria before being considered: 1) the condition described by the variable had to be important in

defining or characterizing the particular wetland type under consideration, 2) values had to be easily estimated for the proposed project area based on existing data (e.g., aerial photography, LANDSAT, GIS systems, water quality monitoring stations, and interviews with knowledgeable individuals), and 3) the variable had to be sensitive to the types of changes expected to be brought about by typical wetland projects proposed under the CWPPRA. Models consulted included those for mammals, birds, reptiles, freshwater fish, and estuarine fish and shellfish, which represented a wide range of trophic levels and habitat requirements.

The variable selection procedure resulted in seven variables chosen to describe wetland quality for each of the three marsh types, and three variables for swamp (Attachments A-D). Suitability Index graphs were constructed for each variable to illustrate how wetland quality changes as the variable values change. Construction of Suitability Index graphs for each variable allows the model user to quantitatively describe the "quality" of a wetland area for any value measured for the variable in question. Each Suitability Index ranges from 0.0 to 1.0, with 1.0 representing the optimum condition for the variable in question. Suitability Index graphs were developed via consensus between various representatives of most of the agencies making up the CWPPRA Task Force.

Suitability Indices for each of the variables within a wetland type are combined via a formula to yield a single Habitat Suitability Index value that describes the overall quality of the particular study area being evaluated (Attachment 2). Like the Suitability Index graphs, the Habitat Suitability Index formulas were developed by consensus.

WVA Application

Habitat Suitability Indices are established for baseline conditions and are predicted for future-with and future-without project conditions for various target years throughout the expected life of the project being evaluated. Those Habitat Suitability Indices are then multiplied by the acreage of wetland type known or expected to be present in the various target years to arrive at Habitat Units. The Habitat Units are then summed across all years in the project life and are annualized to arrive at Average Annual Habitat Units (AAHU's). The AAHU's resulting from the future-with and future-without project conditions are compared to determine the net gain in AAHU's attributable to the project being evaluated. Net gain in AAHU's is then combined with cost data to arrive at a cost per AAHU for the evaluated project.

WETLAND VALUE ASSESSMENT COMMUNITY MODEL

Fresh/Intermediate Marsh

Vegetation:

- V₁ Percent of wetland area dominated by emergent vegetation.
V₂ Percent of open water area dominated by aquatic vegetation.

Interspersion:

- V₃ Marsh/open water interspersion.

Water Depth and Duration:

- V₄ Water regime of marsh and shallow water areas.
V₅ Open water depth.

Water Quality:

- V₆ Mean high salinity during the growing season (March through October).

Aquatic Organism Access:

- V₇ Percent of marsh/open water interface accessible to aquatic organisms.

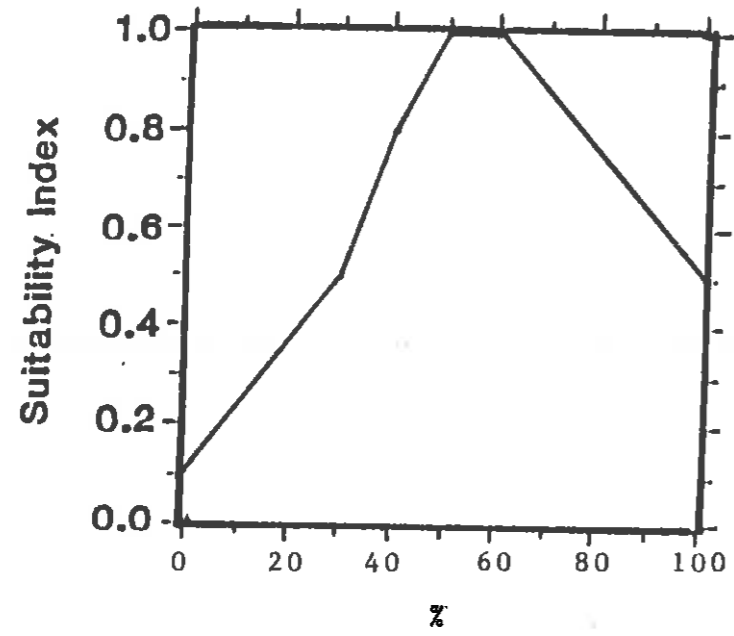
HSI Calculation:

$$HSI = (SI_{V_1}^2 \times SI_{V_2}^2 \times SI_{V_3} \times SI_{V_4} \times SI_{V_5} \times SI_{V_6} \times SI_{V_7})^{1/9}$$

FRESH/INTERMEDIATE MARSH

V₁ Percent of wetland area dominated by emergent vegetation.

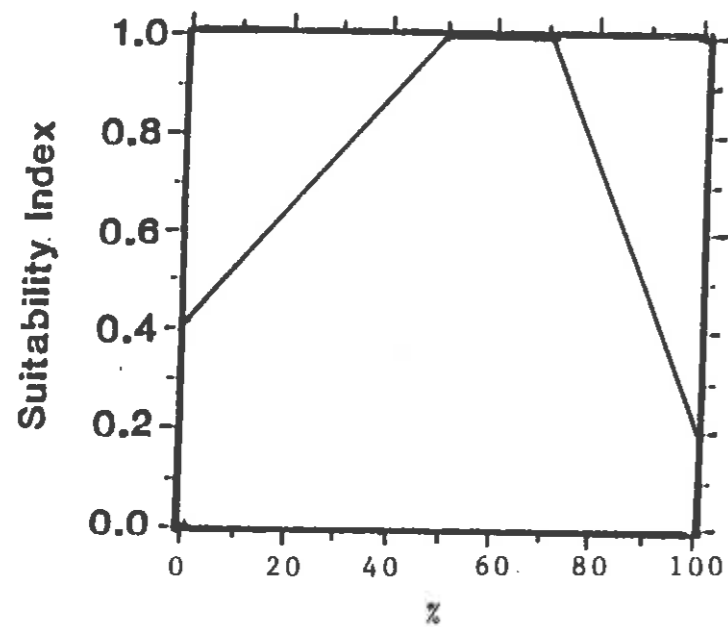
Suitability Graph



FRESH/INTERMEDIATE MARSH

V₂ Percent of open water area dominated by aquatic vegetation.

Suitability Graph



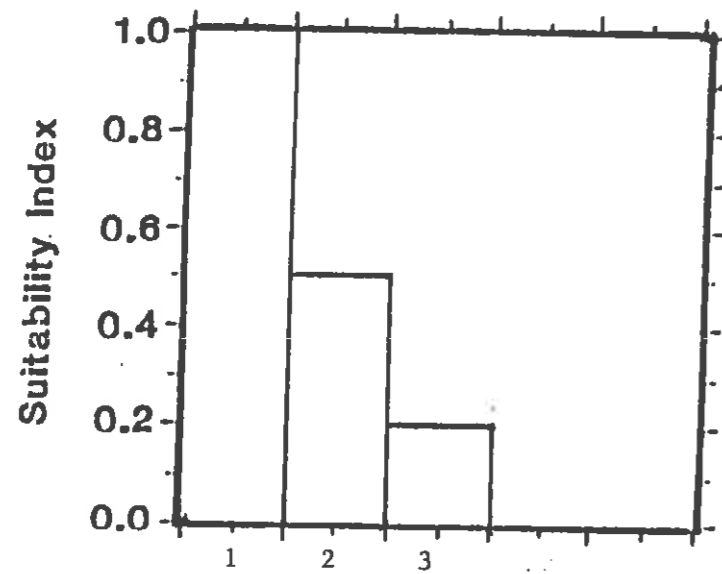
SIV₂ shall be modified (reduced) as follows:
if percentage of open water area dominated by water hyacinth, alligatorweed, Salvinia spp., Nuphar spp., and/or Nymphae spp. is greater than 20 percent, then $SIV_{2mod} = SIV_2(1 - \% \text{ coverage of problem species})$. Otherwise, no modification is needed.

FRESH/INTERMEDIATE MARSH

V₃ Marsh/open water interspersion.

- 1 = Optimum
- 2 = Moderate
- 3 = Low

Suitability Graph

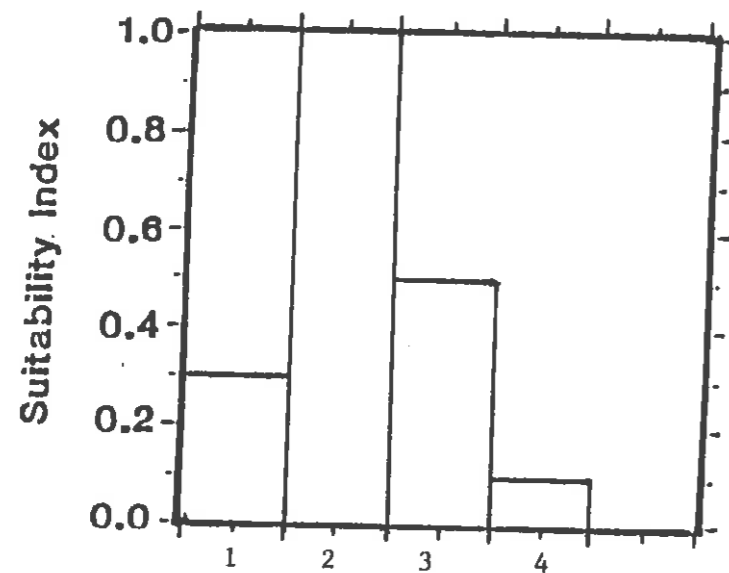


Picture keys will be developed to illustrate the 3 interspersion categories. For each category, 2 representative pictures will be available: one showing interspersion with ponds, the other with other openwater types (i.e., channels, etc.). The pond pictures will apply mostly to fresh/intermediate marsh type. The one set of pictures will be used for all marsh types.

FRESH/INTERMEDIATE MARSH

V₄ Water regime of marsh and shallow water areas.

Suitability Graph

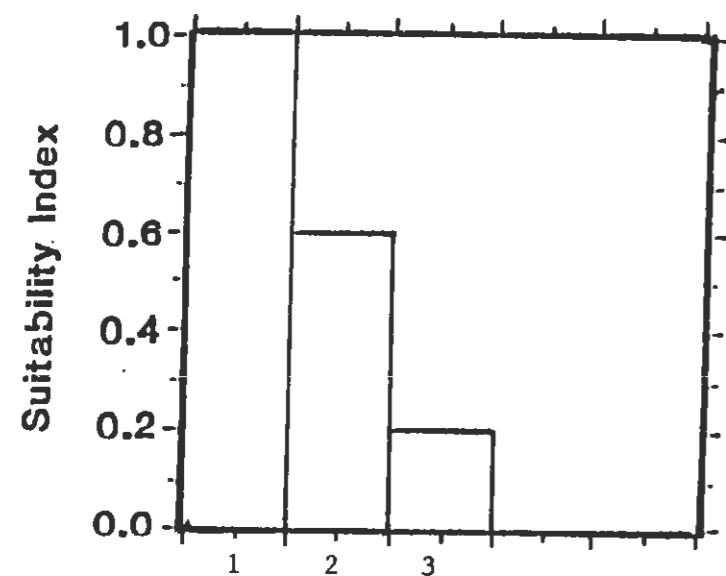


- 1 - Permanently Flooded: water covers the substrate throughout the year in all years.
- 2 - Semipermanently Flooded: surface water is present throughout the growing season in most years.
- 3 - Seasonally Flooded: surface water is present for extended periods, especially in the growing season, but is absent by the end of the growing season in most years.
- 4 - Temporarily Flooded: surface water is present for brief periods during the growing season, but the water table usually lies well below the surface for most of the season.

FRESH/INTERMEDIATE MARSH

V₅ Open water depth.

Suitability Graph



1 - Water depth less than 1 foot deep.

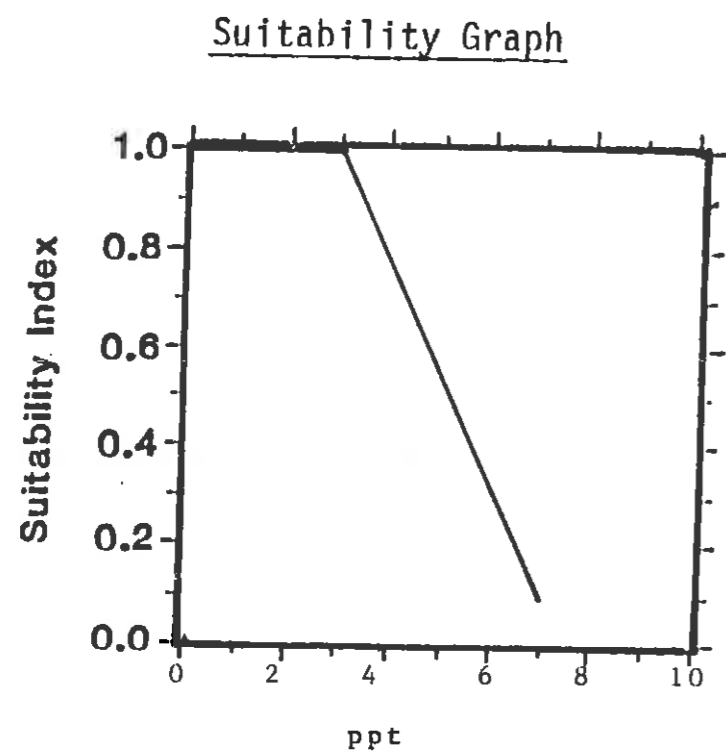
2 - Water between 1 and 1.5 feet deep.

3 - Water more than 1.5 feet deep.

Estimate acreage in each category and compute a weighted average to arrive at SIV₅.

FRESH/INTERMEDIATE MARSH

V
6 Mean high salinity during the growing season
(March through October)

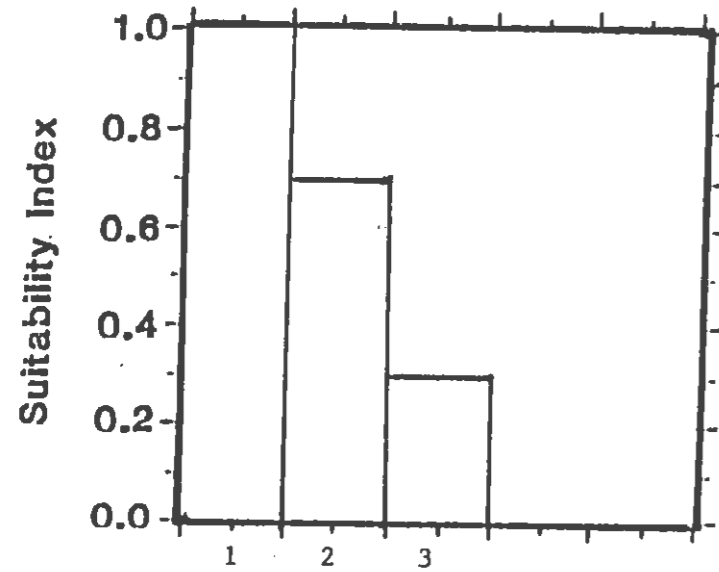


Average high salinity is defined by computing the average of the upper 33 percent of salinity readings taken during the period of record.

FRESH/INTERMEDIATE MARSH

V₇ Percent of marsh/open water interface accessible to aquatic organisms.

Suitability Graph



- 1 - Greater than 75 percent of the marsh/open water interface is accessible to aquatic organisms.
- 2 - Between 40 and 75 percent of marsh/open water interface is accessible.
- 3 - Less than 40 percent of marsh/open water interface is accessible.

WETLAND VALUE ASSESSMENT COMMUNITY MODEL

Brackish Marsh

Vegetation:

- V₁ Percent of wetland area dominated by emergent vegetation.
V₂ Percent of open water area dominated by aquatic vegetation.

Interspersion:

- V₃ Marsh/open water interspersion.

Water Depth and Duration:

- V₄ Water regime of marsh and shallow water areas.
V₅ Open water depth.

Water Quality:

- V₆ Average annual salinity.

Aquatic Organism Access:

- V₇ Percent of marsh/open water interface accessible to aquatic organisms.

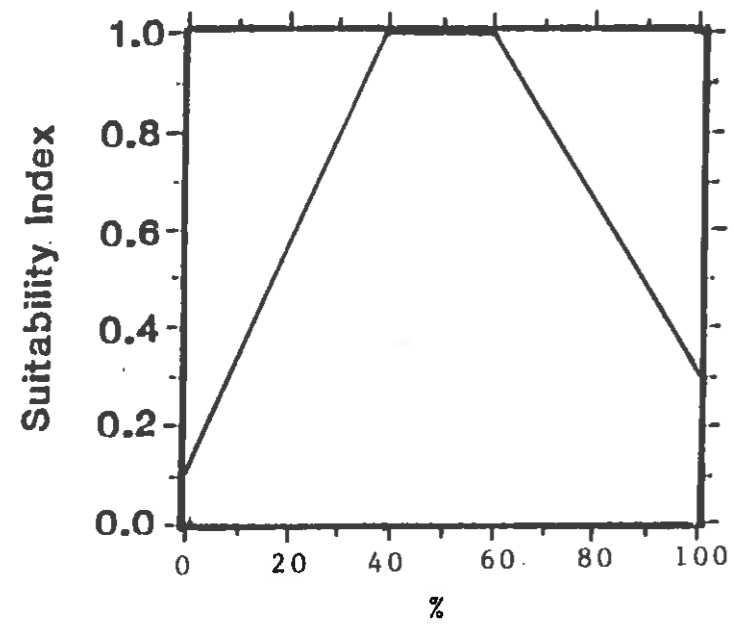
HSI Calculation:

$$HSI = (SI_{V_1}^2 \times SI_{V_2}^2 \times SI_{V_3} \times SI_{V_4} \times SI_{V_5} \times SI_{V_6} \times SI_{V_7})^{1/9}$$

BRACKISH MARSH

V₁ Percent of wetland area dominated by emergent vegetation.

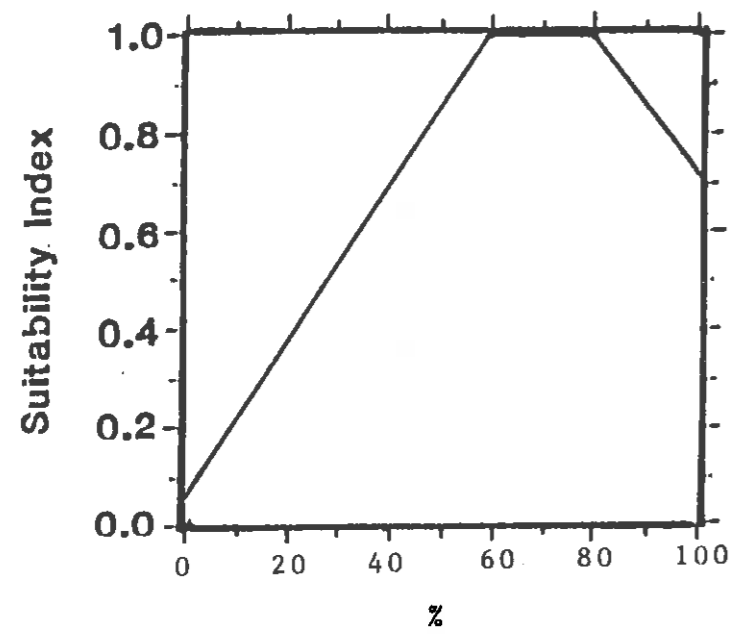
Suitability Graph



BRACKISH MARSH

V₂ Percent of open water area dominated by aquatic vegetation.

Suitability Graph

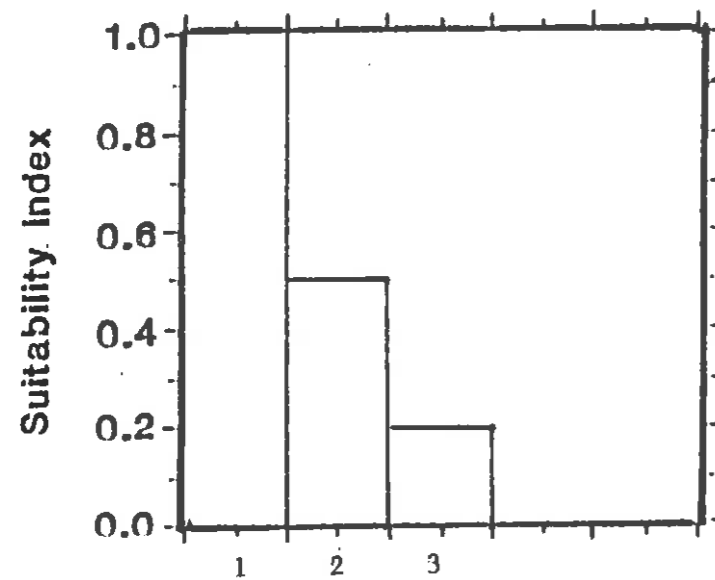


BRACKISH MARSH

V₃ Marsh/open water interspersion.

- 1 = Optimum
- 2 = Moderate
- 3 = Low

Suitability Graph

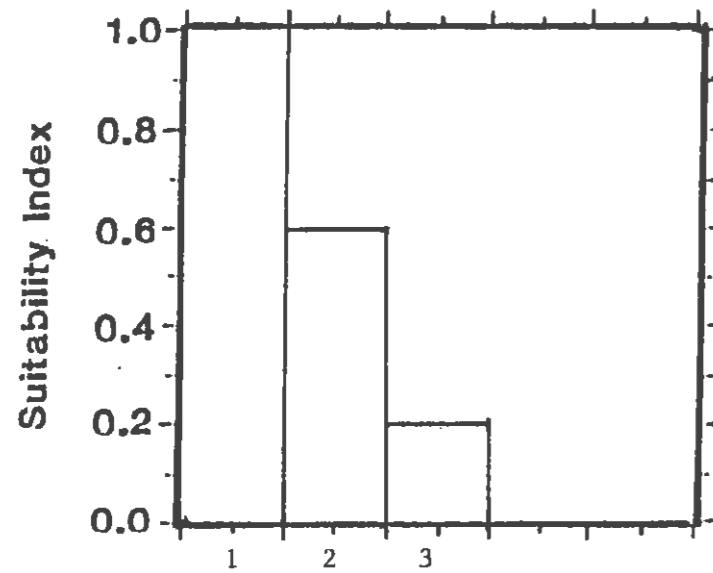


Picture keys will be developed to illustrate the 3 interspersion categories. For each category, 2 representative pictures will be available: one showing interspersion with ponds, the other with other open water types (i.e., channels, etc.). The one set of pictures will be used to illustrate interspersion for all marsh types.

BRACKISH MARSH

V₅ Open water depth.

Suitability Graph



1 - Water less than 1 foot deep.

2 - Water between 1 and 1.5 feet deep.

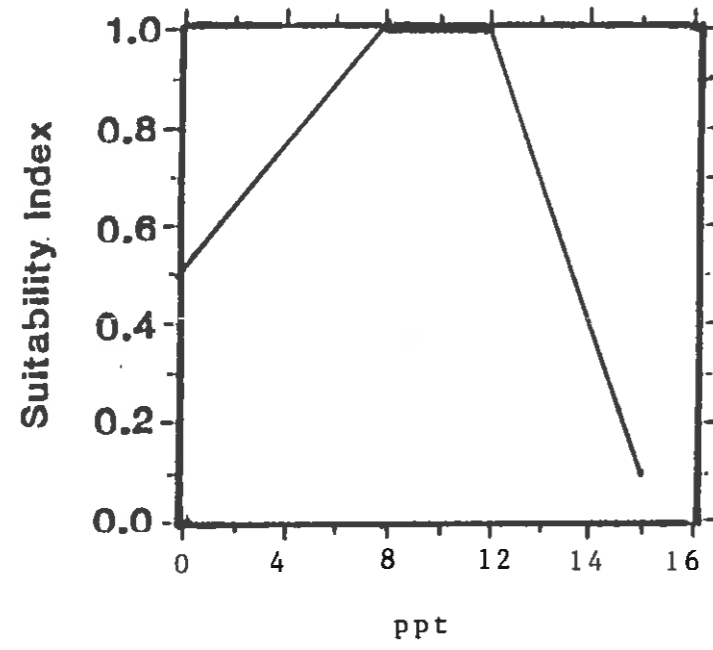
3 - Water more than 1.5 feet deep.

Estimate acreage in each category and compute a weighted average to arrive at SIV₅.

BRACKISH MARSH

V₆ Average annual salinity.

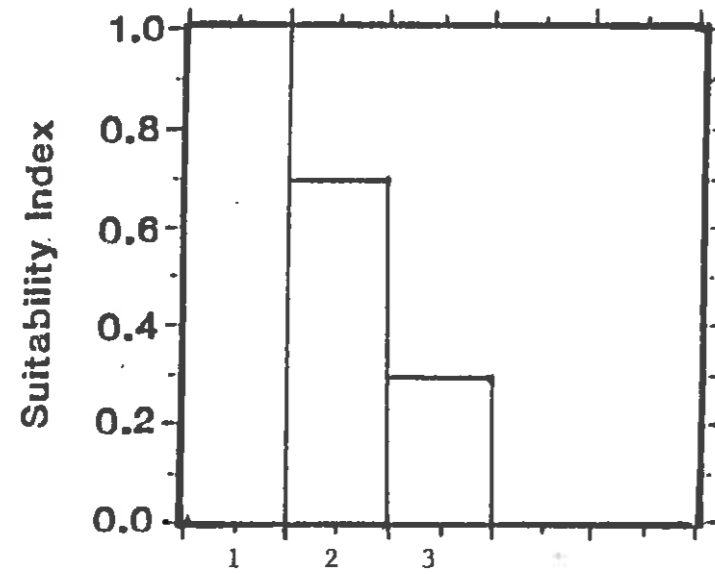
Suitability Graph



BRACKISH MARSH

V₇ Percent of marsh/open water interface accessible to aquatic organisms.

Suitability Graph



- 1 - Greater than 75 percent of the marsh/open water interface is accessible to aquatic organisms.
- 2 - Between 40 and 75 percent of marsh/open water interface is accessible.
- 3 - Less than 40 percent of marsh/open water interface is accessible.

WETLAND VALUE ASSESSMENT COMMUNITY MODEL

Saline Marsh

Vegetation:

- V₁ Percent of wetland area dominated by emergent vegetation.
V₂ Percent of open water area dominated by aquatic vegetation.

Interspersion:

- V₃ Marsh/open water interspersion.

Water Depth and Duration:

- V₄ Water regime of marsh and shallow water areas.
V₅ Open water depth.

Water Quality:

- V₆ Average annual salinity.

Aquatic Organism Access:

- V₇ Percent of marsh/open water interface accessible to aquatic organisms.

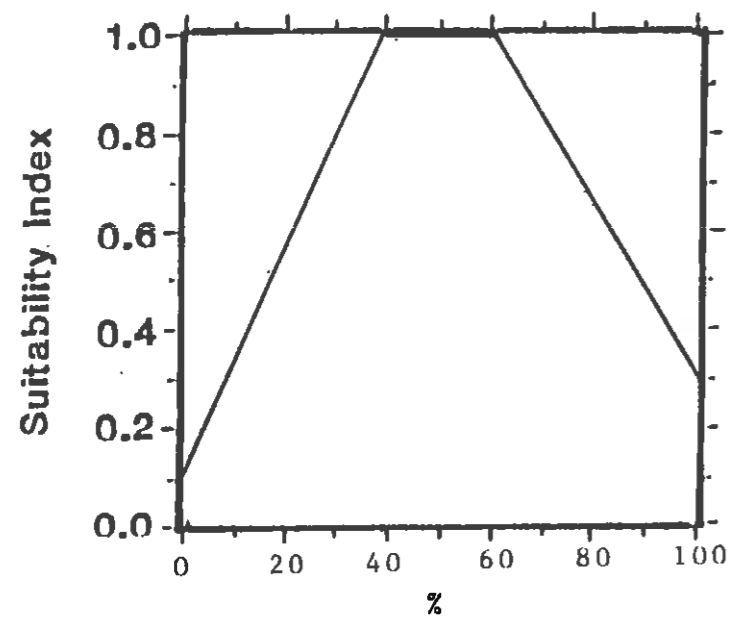
HSI Calculation:

$$HSI = (SI_{V_1}^2 \times SI_{V_2}^2 \times SI_{V_3} \times SI_{V_4} \times SI_{V_5} \times SI_{V_6} \times SI_{V_7})^{1/9}$$

SALINE MARSH

V_I Percent of wetland area dominated by emergent vegetation.

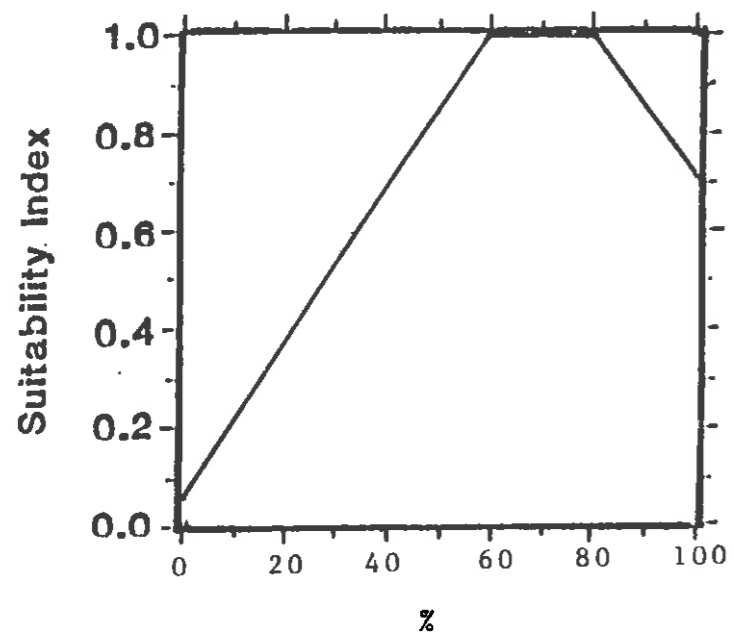
Suitability Graph



SALINE MARSH

V₂ Percent of open water area dominated by aquatic vegetation.

Suitability Graph

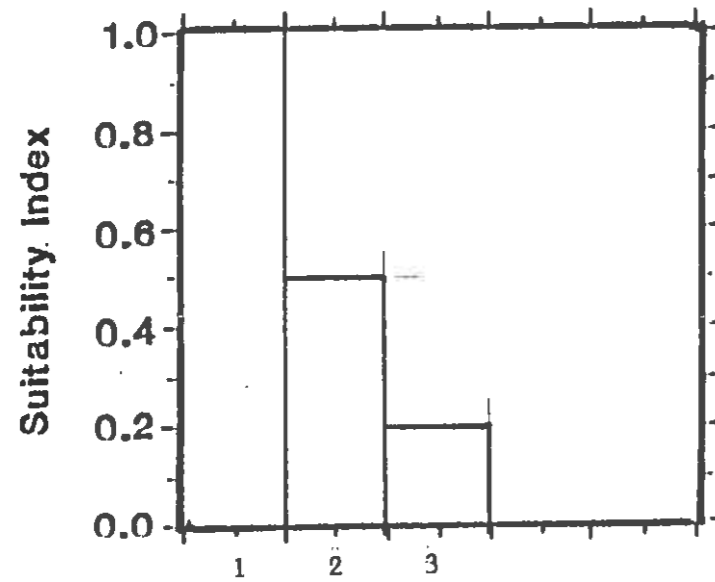


SALINE MARSH

V₃ Marsh/open water interspersions.

- 1 = Optimum
- 2 = Moderate
- 3 = Low

Suitability Graph

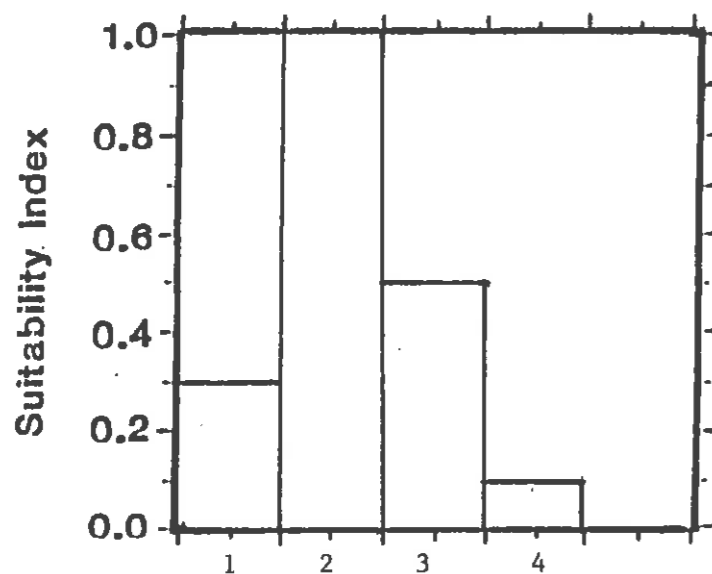


Picture keys will be developed to illustrate the 3 interspersions categories. For each category, 2 representative pictures will be available: one showing interspersions with ponds, the other with other open water types (i.e., channels, etc.). The one set of pictures will be used to illustrate interspersions for all marsh types.

SALINE MARSH

V₄ Water regime of marsh and shallow water areas.

Suitability Graph

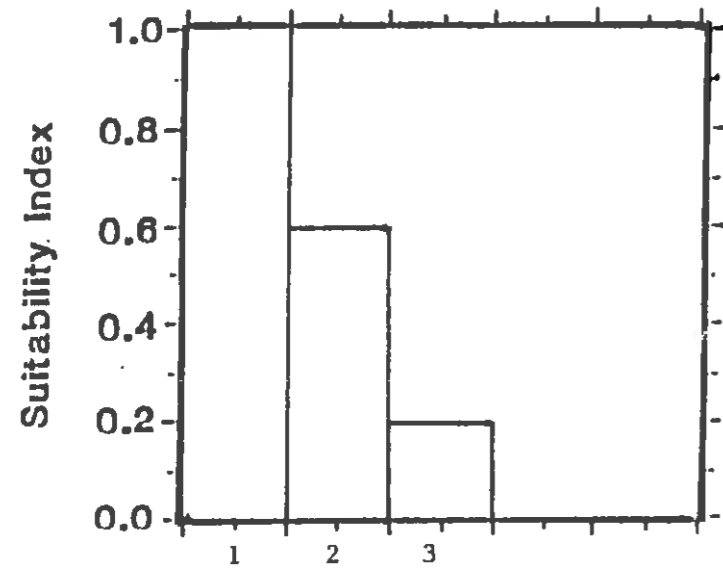


- 1 - Permanently Flooded: water covers the substrate throughout the year in all years.
- 2 - Semipermanently Flooded: surface water is present throughout the growing season in most years.
- 3 - Seasonally Flooded: surface water is present for extended periods, especially in the growing season, but is absent by the end of the growing season in most years.
- 4 - Temporarily Flooded: surface water is present for brief periods during the growing season, but the water table usually lies well below the surface for most of the season.

SALINE MARSH

V₅ Open water depth.

Suitability Graph



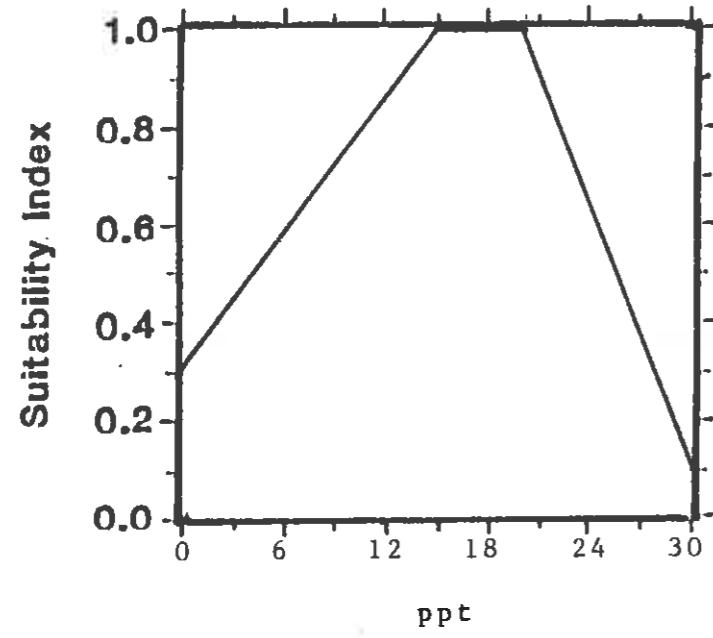
- 1 - Water less than 1 foot deep.
- 2 - Water between 1 and 1.5 feet deep.
- 3 - Water more than 1.5 feet deep.

Estimate acreage in each category and compute a weighted average to arrive at SIV₅.

SALINE MARSH

V₆ Average annual salinity.

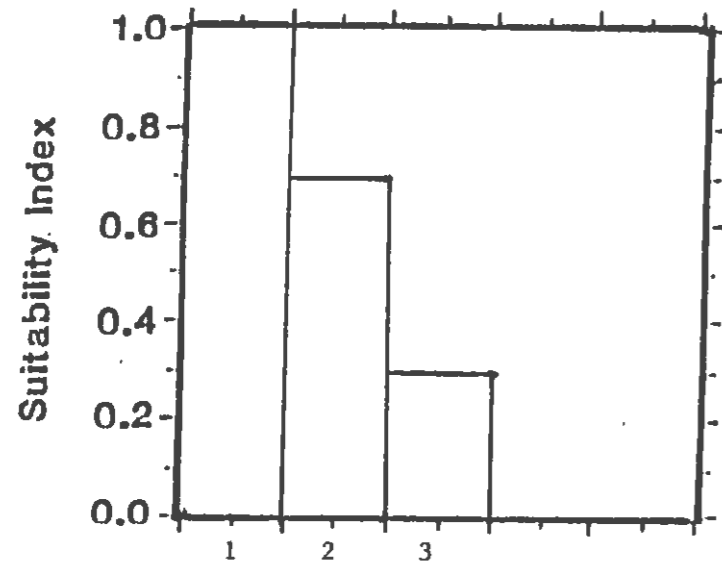
Suitability Graph



SALINE MARSH

V7 Percent of marsh/open water interface accessible to aquatic organisms.

Suitability Graph



- 1 - Greater than 75 percent of the marsh/open water interface is accessible to aquatic organisms.
- 2 - Between 40 and 75 percent of marsh/open water interface is accessible.
- 3 - Less than 40 percent of marsh/open water interface is accessible.

WETLAND VALUE ASSESSMENT COMMUNITY MODEL

Swamp

Water Depth and Duration:

V₁ Water regime.

Water Quality:

V₂ Water flow/exchange.

V₃ Average annual salinity.

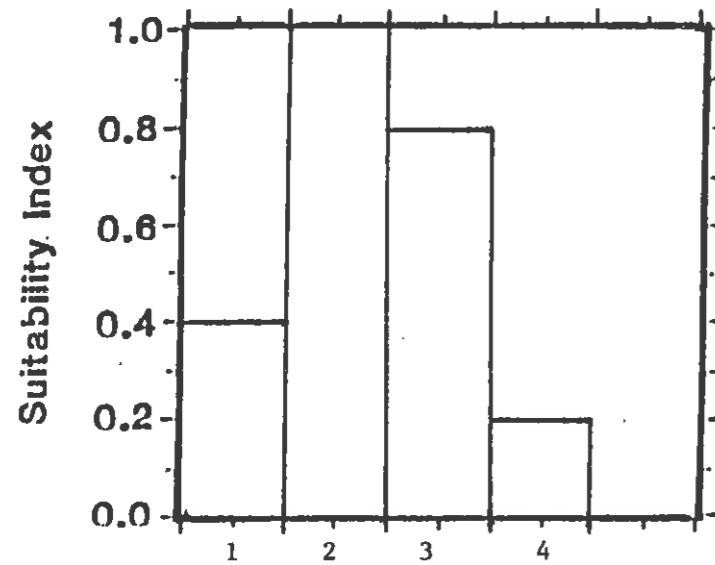
HSI Calculation:

$$HSI = (SI_{V_1} \times SI_{V_2} \times SI_{V_3})^{1/3}$$

SWAMP

V₁ Water regime.

Suitability Graph

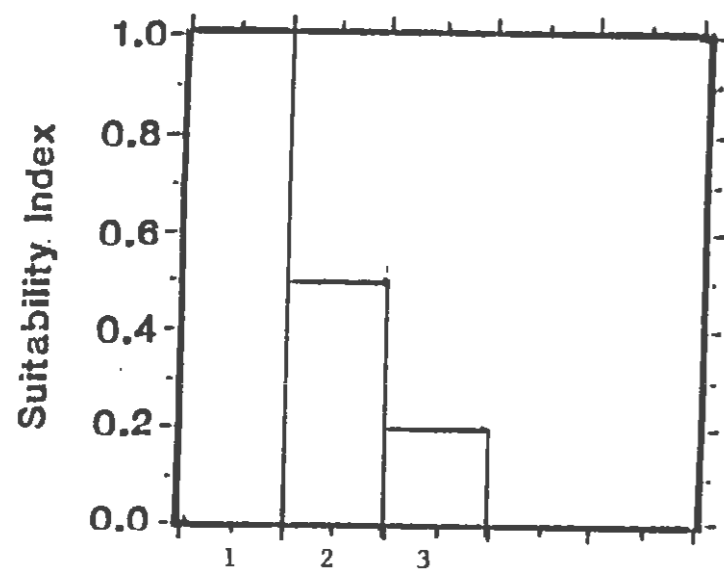


- 1 - Permanently Flooded: water covers the substrate throughout the year in all years.
- 2 - Semipermanently Flooded: surface water is present throughout the growing season in most years.
- 3 - Seasonally Flooded: surface water is present for extended periods, especially in the growing season, but is absent by the end of the growing season in most years.
- 4 - Temporarily Flooded: surface water is present for brief periods during the growing season, but the water table usually lies well below the surface for most of the season.

SWAMP

V₂ Water flow/exchange.

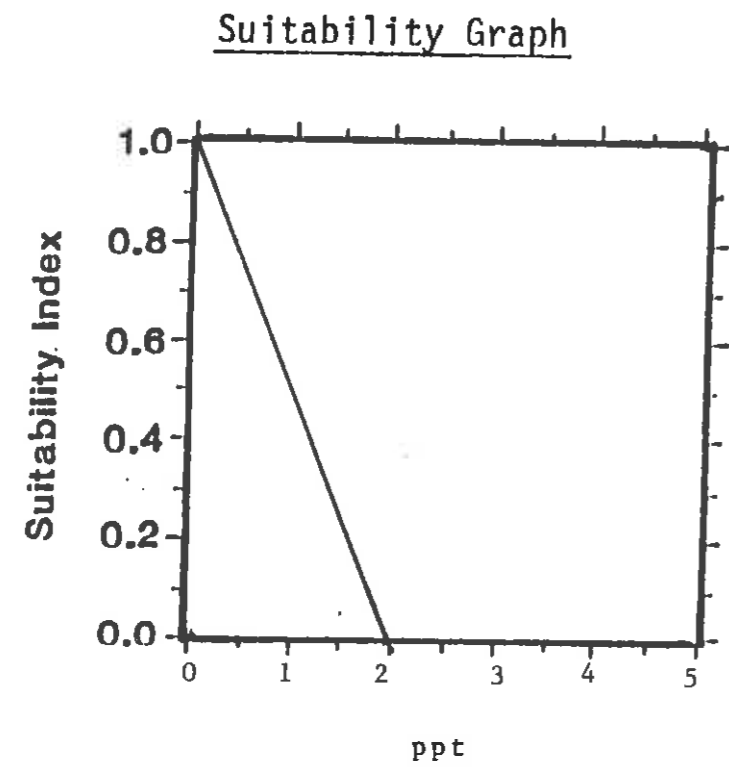
Suitability Graph



- 1 - Shallowly flooded; receives abundant and consistent overflow.
- 2 - Permanently flooded; limited water exchange (through-flow or tidal).
- 3 - Permanently flooded; no water exchange (stagnant, impounded).

SWAMP

V₃ Average annual salinity.



Encl 7

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
June 17, 1991

ENCLOSURE 7
PRIORITY LIST CRITERIA

Encl 7

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

PRIORITY LIST CRITERIA

Criteria for Candidate Projects :

- Coastal wetland restoration project (as defined in Section 302).
 - "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, includes any provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual 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;"
- Project substantially complete in 5 years.
- Project results in the long-term (>10 years) conservation of wetlands.
- Project meets desirable planning objectives established by the Task Force and does not appear to conflict with other projects within the same basin.

Criteria for Listed Projects :

- Criteria for candidate projects satisfied.
- Project meets desirable planning objectives established by the Task Force and does not conflict with other proposed projects within the same basin.
- The Task Force agrees that the lead Task Force member for the project will likely be able to obtain full environmental compliance :
 - NEPA
 - Sections 10/404
 - State Coastal Management Program
 - State Water Quality Certification
 - Endangered Species Act

Primary criterion for Prioritizing Candidate and Listed Projects :

- Average Annual Cost/Habitat Unit
 - Construction costs.
 - Real Estate costs.
 - O & M costs.
 - Monitoring Costs.
 - Wetland Value Assessment Methodology.

Secondary criteria for Prioritizing Candidate and Listed Projects :

- A Letter of Interest (Intent) to cost share (through/) from the State of Louisiana or other non-Federal Sponsor.
- A Letter of Interest (Intent) from landowner to satisfy the necessary "terms and conditions to be established by the Secretary of the Army, under Section 303(e).
- A specific recommendation from the State of Louisiana concerning whether or not to include the project on the Priority List.
- Average Annual Acres of wetlands and other habitats created/benefited by the project.
- Average Annual Acres of wetlands and other habitats lost/degraded by the project.
- Current and/or projected rates of vegetated wetland loss and their causes within the project area, hydrologic basin, and throughout the coastal area.
- Freshwater or sediment diversion/introduction project or feature of a project.
- Relative abundance of marsh types in the project area, hydrologic basin, and throughout the coastal area.
- Level of public support.
- Part of major interagency environmental program that has a scientifically based methodology.
- Provides direct benefits to Federal and State endangered or threatened species.
- Speed of implementation.
- Technologies used are applicable to other coastal wetlands.

Fact Sheet Contents:

- Lead Task Force Member identified.
- Location (with map).
- Project Description.
- Project outputs (benefits).
 - Average Annual Acres of Wetlands created/benefited.
 - Average Annual Habitat Units (HU) provided.
- Financial Data.
 - First cost.
 - O&M costs.
 - Monitoring costs.
 - Other economic costs.
 - Average Annual cost/HU.
- Construction schedule.
- Responsibilities of other Task Force Members.
- Status of Environmental Compliance.

Criteria for Identifying Lead Task Force Members :

- Task Force member has jurisdiction by Federal Law.
- Task Force member has existing real estate interest in project lands.
- Task Force member has previous experience implementing such a project.
- Task Force member has an interest in and a capability to implement such a project.

Criterion for Developing Engineering Design and Cost Data :

- 25 percent limit on project cost estimate increases.
 - Based on the cost estimate when the project was submitted to Congress as part of the annual list.
 - Percentage does not include price-level increases.
 - Project would be returned to the Technical Committee to reassess its priority.

Encl 8

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
June 17, 1991

ENCLOSURE 8

LETTER FROM MS. LILLIAN J. BAYER

Encl 8

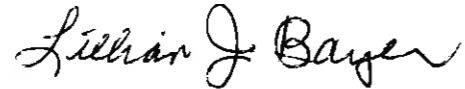
June 17, 1991

Dear Members:

Grand Isle is a very special part of the Coastal Wetlands. Please give it high priority listing. Grand Isle is worth saving and the people there deserve the Grand Isle Hurricane and Erosion Project that is being implemented now by the Corp of Engineers.

However, someone must maintain the project after it is finished. Will this be done? Can the people of Grand Isle be assured it will be done and who will do this?

Sincerely,



Lillian J. Bayer
A Concerned Citizen
1717 N. Cumberland Ave.
Metairie, La. 70003

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

TASK FORCE OPERATING PROCEDURES OUTLINE

Technical Committee Recommendation:

Approve the Task Force Operating Procedures Outline contained on the following pages.

Additional Considerations:

The Planning and Evaluation Subcommittee will continue to add existing, and newly developed, information to the outline, under the appropriate subject headings, until the document is complete. The Planning and Evaluation Subcommittee will be responsible for updating information in the operating procedures.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE OPERATING PROCEDURES

I. INTRODUCTION

- Information taken directly from the Act.

II. AUTHORITY

- Information taken directly from the Act.

III. TASK FORCE RESPONSIBILITIES

- Information previously developed by the Task Force.

A. Purpose.

B. Chairman and Membership.

C. Meetings.

D. Procedures.

1. Quorum.
2. Voting/Consensus.
3. Agenda.
4. Minutes.
5. Information Distribution.
6. Amendments to the Operational Procedures.
7. Authority to Create Committees and Subcommittees.

E. Delegations, Staff, and Public Involvement.

1. Delegation of Authority.
2. Attendance Policy.
3. Opportunity for Public Involvement.

IV. REPORTS TO CONGRESS

- Information taken directly from the Act

A. Priority Project List of Coastal Wetlands Restoration Projects
(Section 303a).

B. Louisiana Comprehensive Coastal Wetlands Restoration Plan
(Section 303b).

C. Three-year Evaluation of Projects.

V. ESTABLISHMENT OF COMMITTEES AND WORK GROUPS

- Information in various stages of development by the Technical Committee.

A. Technical Committee.

1. Membership.
2. Purpose.
3. Operating Procedures.
4. Areas of Responsibility.
 - a. Project Plan Format.
 - b. Project Formulation Procedures.
 - c. Project Evaluation Procedures.
 - d. Cost-Sharing Procedure.
 - e. Operation and Maintenance Procedures.
 - f. Monitoring and Evaluation Procedures.
 - g. Authority to Create and Oversee Work Groups.
 - h. Budget Development and Management.
 - i. Contract Administration and Support Services.
 - j. Project Implementation.
 1. Local Sponsor Requirements.
 2. Lead Task Force Member Responsibilities.
 3. Contract Administration.
 4. Lands, Easements, Rights-of-Way, and Assurances.
 5. Operation, Maintenance, and Monitoring Agreements.
 6. Three-year Post-Project Evaluation Plan and Report.
 - k. Point of Contact for the Media.

B. Citizens Subcommittee.

- Information subject to the review and approval of the Technical Committee and the Task Force.

1. Membership.

- a. Gulf Intracoastal Canal Association.
- b. Midcontinent Oil and Gas Association.
- c. Louisiana Nature Conservancy.
- d. Louisiana Wildlife Federation.
- e. Louisiana Farm Bureau.
- f. Louisiana League of Women Voters.
- g. Coalition to Restore Coastal Louisiana.
- h. Concerned Shrimpers of Louisiana.
- i. Louisiana Gulf Coast Conservation Association.
- j. Louisiana Oyster Growers and Producers Association.
- k. Louisiana Landowners Association.
- l. New Orleans Steamship Association.
- m. Marsh Committee of the Louisiana Association of Soil and Water Conservation Districts.
- n. Police Jury Association. (Potential Member)

2. Purpose.

3. Operating Procedures.

4. Areas of Responsibility.

- a. Provide Advice and Volunteer Assistance on the Public Involvement Process.
- b. Represent their Membership at Technical Committee Meetings.
- c. Provide Scoping Input.
- d. Identify the impact of specific projects on their areas of concern.

C. Planning and Evaluation Subcommittee.

- Information in various stages of development by the Planning and Evaluation Subcommittee.

1. Membership.

2. Purpose.

3. Operating Procedures.

4. Areas of Responsibility.

- a. Identify Candidate Projects and Plans.
- b. Develop and implement a Screening and Ranking Procedure.

- c. Determine the Non-Monetary Benefits of Candidate Projects.
- d. Recommend Priority Project Lists and the Restoration Plan.
- e. Prepare Priority Project List and Restoration Plan Submittal Packages.
- f. Maintain the Task Force Operational Procedures Manual.
- g. Develop Project Evaluation and Monitoring Procedures.
- h. Develop Plan of Study for the Restoration Plan.
- i. Project Planning.
 - 1. Lead Task Force Member Designation.
 - 2. Report Format.
 - 3. Project Formulation Procedures.
 - 4. Project Evaluation Procedures.
 - 5. Cost-Sharing Responsibilities.
 - 6. Project Plan Reviews.
 - 7. Demonstration Projects.

D. Engineering Work Group.

- Information subject to the review and approval of the Technical Committee and the Task Force.

- 1. Membership.
- 2. Purpose.
- 3. Operating Procedures.
- 4. Areas of Responsibility.
 - a. Establish Reconnaissance and Feasibility-Level Design/Cost Standards.
 - b. Develop Criteria for Estimating Acres of Coastal Wetlands Created, Restored, Protected, or Enhanced in cooperation with the Environmental Work Group.
 - c. Review the Engineering Design and Cost Estimates of Candidate Projects.
 - d. Review Plans and Specifications Prior to Advertisement of Construction Bids.

E. Economics Work Group.

- Information subject to the review and approval of the Technical Committee and the Task Force.

- 1. Membership.
- 2. Purpose.
- 3. Operating Procedures.

4. Areas of Responsibility.
 - a. Analyze the Cost Effectiveness of Candidate Projects.
 - b. Determine the Economic Impacts of Candidate Projects.
 - c. Annualize HU Outputs of Candidate Projects.

F. Data Support Work Group.

- Information subject to the review and approval of the Technical Committee and the Task Force.

1. Membership.
2. Purpose.
3. Operating Procedures.
4. Areas of Responsibility.
 - a. Provide Requested Data and Technical Assistance to the Technical Committee, Planning and Evaluation Subcommittee (e.g., wetland maps and trends, sediment and contaminant data, water quality, geologic data and processes, hydrologic data and processes.).

G. Environmental Work Group.

- Information subject to the review and approval of the Technical Committee and the Task Force.

1. Membership.
2. Purpose.
3. Operating Procedures.
4. Areas of Responsibility.
 - a. Prepare Appropriate Documents to Achieve Compliance with:
 1. NEPA.
 2. Sections 10/404.
 3. Endangered Species Act.
 4. NHPA
 5. Louisiana Coastal Management Program.
 6. Louisiana Water Quality Regulations.
 - b. Develop Criteria for Estimating Acres of Coastal Wetlands Created, Restored, Protected, or Enhanced in Cooperation with the Engineering Work Group.
 - c. Conduct Wetland Value Assessments of Candidate Projects.

VI. DISTRIBUTION OF APPROPRIATIONS

- Information taken directly from the Act or in various stages of development by the Technical Committee.

A. Funding Source.

1. Federal.
2. Non-Federal.

B. Funding Amounts.

1. Estimated total to be \$34 million annually (FY92-96).
2. Authorized to spend \$5 million of the total, annually (FY92-99) to prepare the Priority Project List and Restoration Plan

C. Funding Management (Secretary of the Army).

1. Transfer of Funds to Agencies.
2. Project Sponsorship.
3. Funding for Operation, Maintenance, and Monitoring.

VII. MISCELLANEOUS

- Information taken directly from the Act or previously developed by the Technical Committee.

A. Definitions.

B. Conflict of Interest.

C. Liability Disclaimer.

VIII. APPENDICES

A. Coastal Wetlands Planning, Protection, and Restoration Act.

B. Congressional Record - House, October 27, 1990.

C. President's Signing Statement.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

IMPLEMENTATION PLAN FOR SECTION 303

Technical Committee Recommendation:

Approve the implementation plan for Section 303, displayed on the following page.

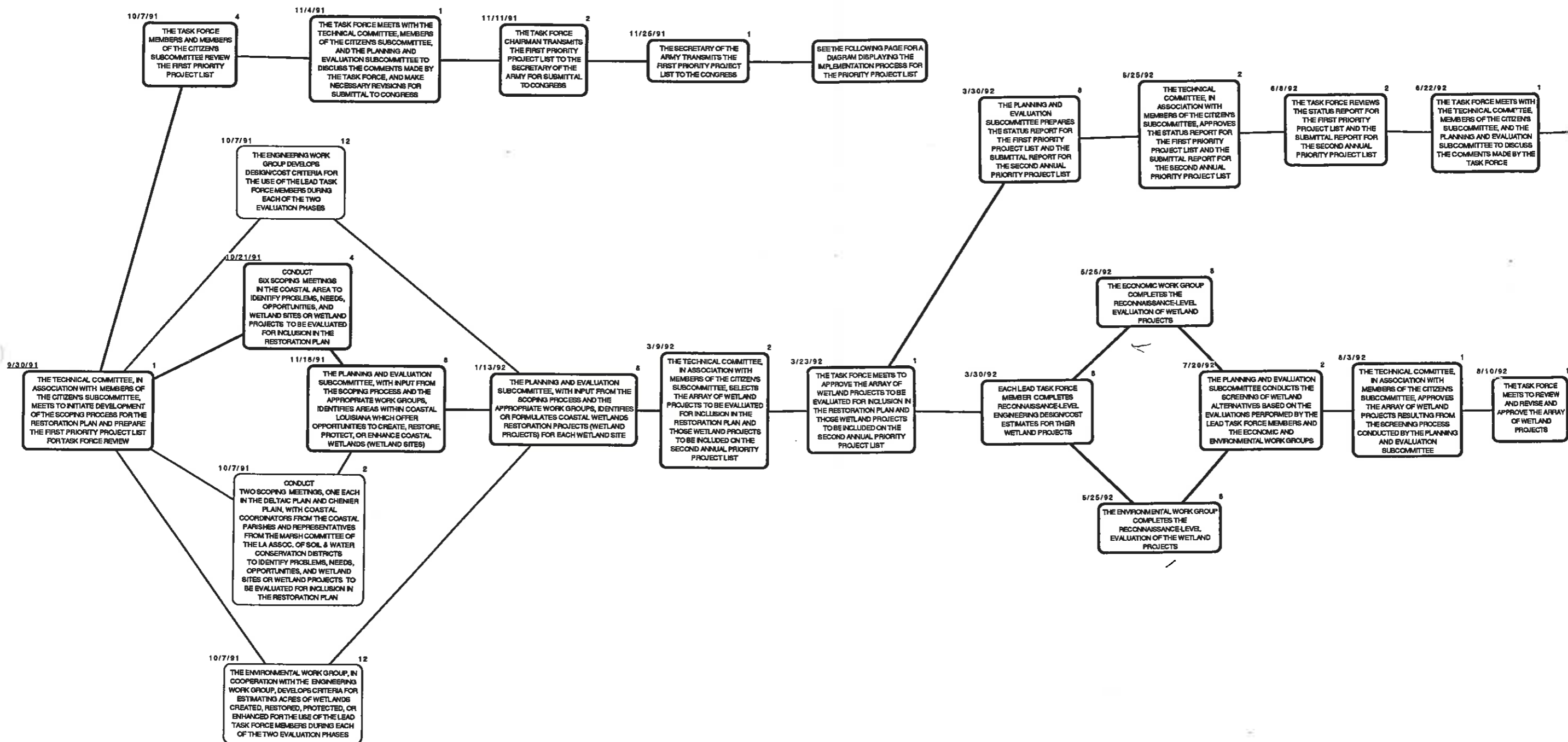
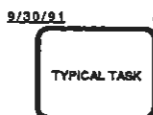
Additional Considerations:

None.

LEGEND

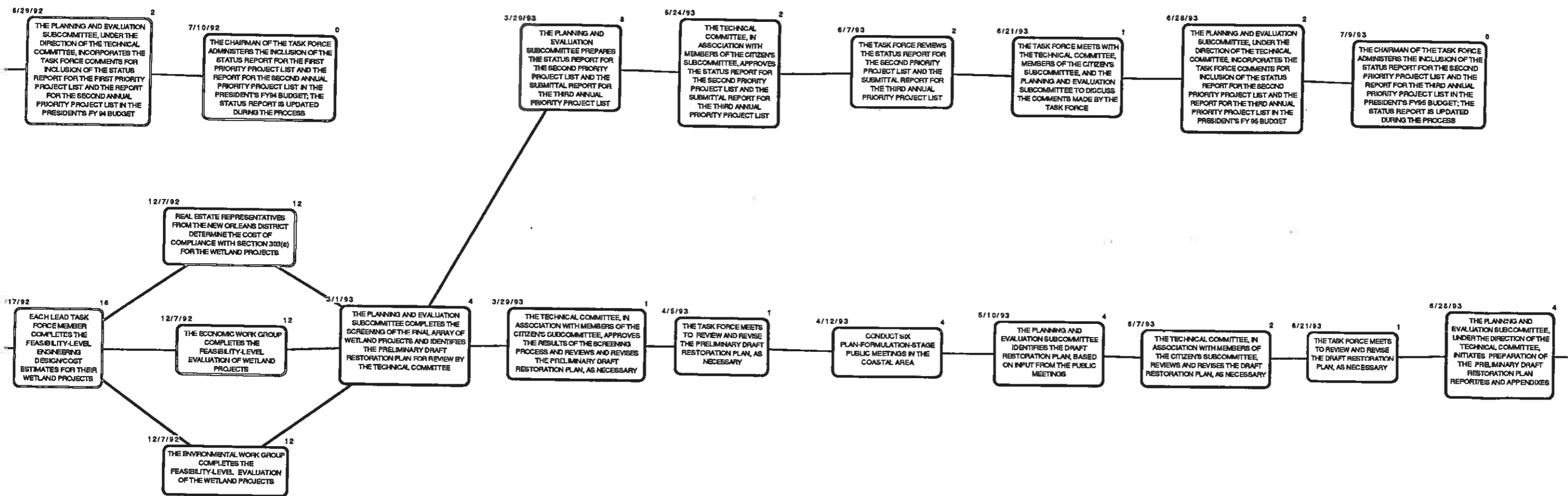
(DATE THE TASK BEGINS)

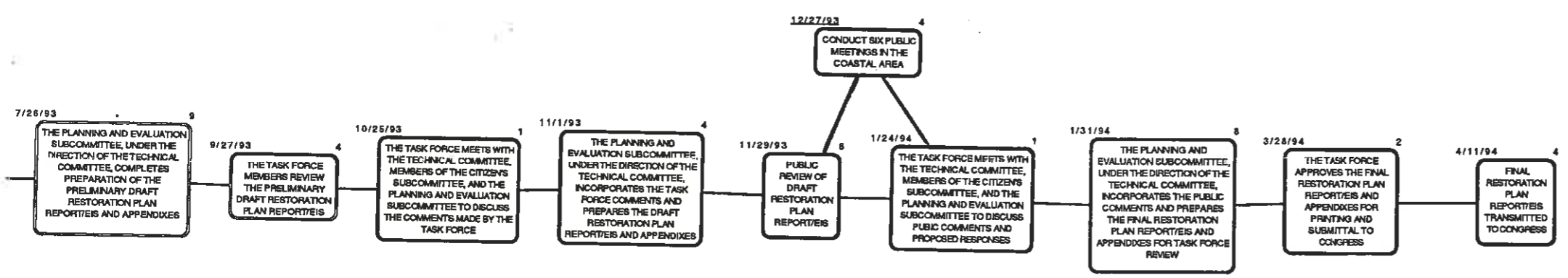
(DURATION OF THE TASK IN WEEKS)



LOUISIANA COASTAL WETLANDS RESTORATION PLAN

August 12, 1991





PRIORITY PROJECT LIST

August 12, 1991

(DATE TASK BEGINS) 3/30/91 (DURATION OF THE TASK IN WEEKS)

LEGEND

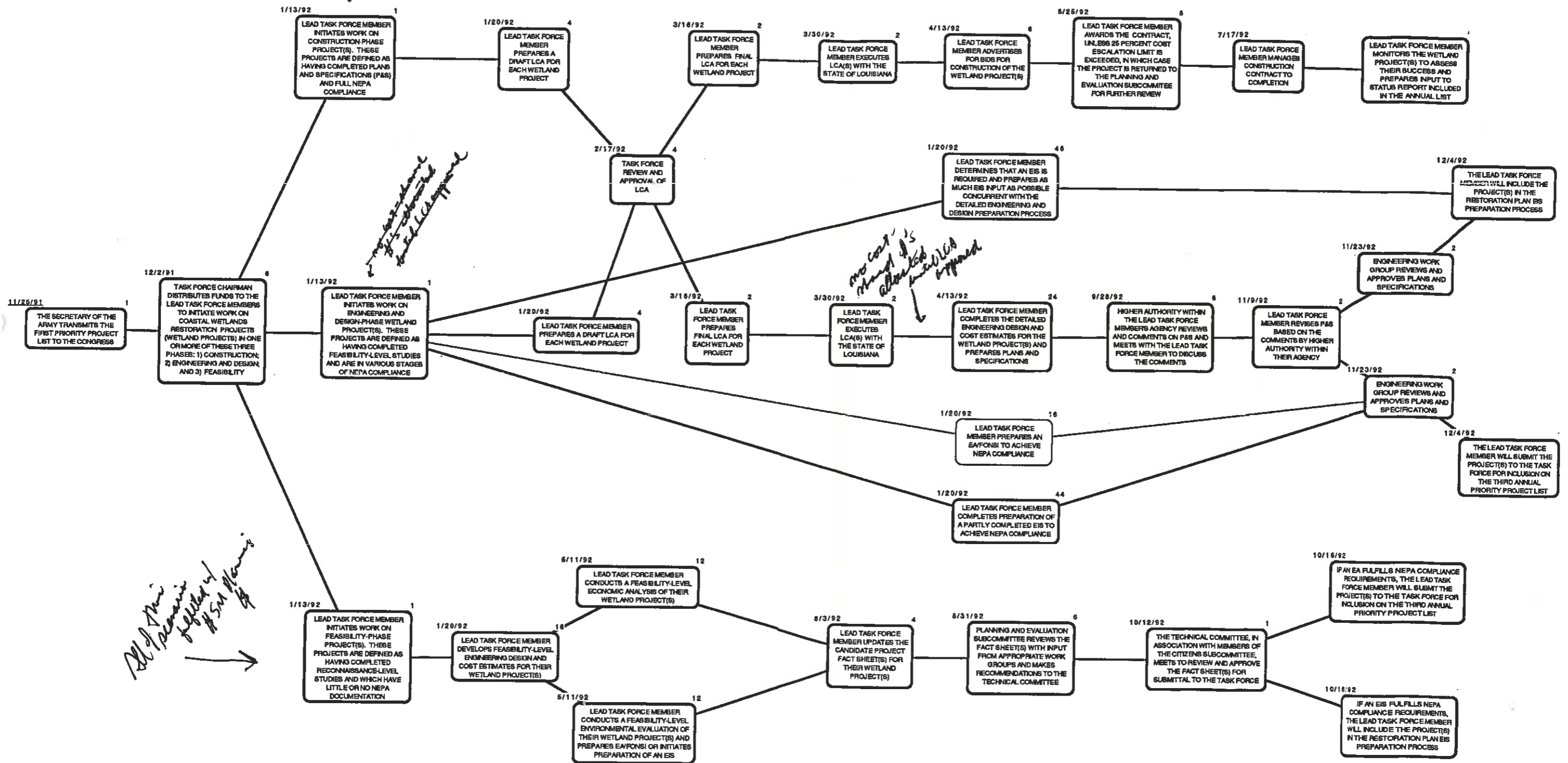


*cost estimate
no. of alternatives
initial LCA approval*

*no. of alternatives
initial LCA approval*

*no cost
change of
alternatives
initial LCA approval*

*All of this
information
is gotten by
H. S. Morris*



COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

CONTRACT SERVICES REQUIREMENTS

The Chairman of the Planning and Evaluation Subcommittee will provide a brief status report on contract services requirements and identify any issues for the consideration of the Task Force.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

PRIORITY PROJECT LIST CONTENTS POLICY

Technical Committee Recommendation:

Approve the following policy :

The Priority Project List (Section 303a) submitted to Congress by the Chairman of the Task Force will consist of two parts as follows:

1. Projects that have final Task Force approval, full NEPA compliance, and are ready for construction with current year funds.

letter of intent from local, state, Fed sponsors

2. Projects that have tentative Task Force approval, but are subject to final Task Force approval upon completion of NEPA compliance requirements and detailed engineering and design. The status, schedule, and cost estimate for completion of NEPA compliance, detailed engineering and design, and construction, will be documented for each project when the Priority Project List is submitted to Congress.

and letter of interest from local, Federal sponsors

Additional Considerations:

None.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

NEPA COMPLIANCE REQUIREMENTS

Technical Committee Recommendation:

The Technical Committee, at their July 26, 1991 meeting, held a lengthy discussion of the recommendations contained in the EPA memorandum displayed on the following pages, entitled "Timing of National Environmental Policy Act (NEPA) Compliance in the Administration of the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA)", authored by Mr. Pat Rankin, EPA Region VI Assistant Counsel. The Technical Committee agreed, in principle, with Recommendation 3 (the second of three recommendation paragraphs) contained in the memorandum and requested that Mr. Thomas, the Technical Committee representative from EPA, ask if Mr. Rankin would be willing to substitute the term "Environmental ^{Eval} Document" for "EA" in Recommendation 3. The term "EA", as defined in the regulations of several Task Force members, has procedural requirements associated with it that exceed those envisioned by Mr. Rankin.

Additional Considerations:

None.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6


1445 ROSS AVENUE, SUITE 1200

DALLAS, TEXAS 75202-2733

July 24, 1991

MEMORANDUM

SUBJECT: Timing of National Environmental Policy Act (NEPA) Compliance in the Administration of the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA).

FROM: Pat Rankin 
Assistant Regional Counsel (6C-A)

TO: Norm Thomas, Chief
Federal Activities Branch (6E-F)

On July 9, 1991, the Technical Committee recommended that the Task Force adopt the draft NEPA Compliance Policy attached hereto. As requested, I provide the following comments and recommendations on that draft policy statement:

PROJECT PRIORITY LISTING

The draft policy states:

lead Task Force member(s) will...initiate preparation of appropriate NEPA documentation for listed projects after ...the [priority] list is approved by the Task Force.

The extent to which this statement complies with the mandates of NEPA depends both on the nature and effect of the Task Force's listing decision. Here, I assume that the decision to place a project on the priority list is neither a final Task Force decision to implement that project nor a recommendation that Congress independently authorize the project,¹ but simply a decision on allocating future appropriations for further feasibility studies and possible implementation of proposed projects.

Given that assumption, a Task Force listing decision cannot itself "significantly affect the quality of the human environment" and is thus not subject to NEPA §102(2)(C), 42 USC §4332(2)(C). Accordingly, the Task Force may make listing decisions without preparing an environmental impact statement (EIS) or finding of no significant impact (FNSI). This does not, however, mean Task Force listing decisions are not subject to other requirements of NEPA.

¹ CWPPRA provides little guidance on the reasons for submitting project priority lists to Congress. It seems most likely Congress intends using the lists in its general oversight function and for determining whether the Task Force should be provided supplemental appropriations in a given year. If Congress intended to use the lists as the basis for authorizing individual projects, however, Task Force listing decisions would be "proposals for legislation" subject to NEPA §102(2)(C). See 40 CFR §1506.8

NEPA §102(2)(E), 42 USC §4332(2)(E), requires that all federal agencies:

study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

This statutory obligation is of broader scope and independent of the corresponding requirement that federal agencies consider alternatives in preparing EISs under NEPA §102(2)(C)(iii). It applies whenever a federal proposal involves "unresolved conflicts concerning alternative uses of available resources," regardless of whether or not adoption of the proposal will itself have significant environmental effects or irretrievably commit resources. See, e.g., Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228-1229 (9th Cir. 1988). Because developing a project priority list involves such "unresolved conflicts" (which are resolved through its adoption), the Task Force must comply with NEPA §102(2)(E) before making its final listing decision, presumably through preparation and consideration of an environmental assessment (EA) describing the relative environmental merits and drawbacks of various projects proposed for listing. See generally 40 CFR §1508.9(a)(2) and (b).

THE STATUTORY CONFLICT RATIONALE

The draft policy states:

It will not be possible for the Task Force to achieve full NEPA compliance with all NEPA requirements for all projects on the list prior to submission of the list to Congress because of the short deadline set by Congress.

Because it refers to "all projects on the list," this provision suggests the Technical Committee erroneously assumed applicability of NEPA §102(2)(C) to the first year Task Force listing decision, but believed full compliance with that provision would be rendered infeasible by a statutory conflict. See, e.g., Flint Ridge Development Co. v. Scenic Rivers Association of Oklahoma, 426 U.S. 776, 787-792, 98 S.Ct. 2430, 2438-2440 (1976) (30 day decisional deadline mandated by statute excused compliance with NEPA §102(2)(C)). Indeed, the only apparent purpose for the draft policy is justifying submission of a project priority list to Congress prior to completion of full NEPA review on each listed project. As indicated above, such justification is unnecessary as long as the Task Force considers an EA before adopting the list.

Although the statutory conflict doctrine also applies to NEPA §102(2)(E), a finding that an EA could not have been prepared in the year between enactment of CWPRA and the deadline for submission of the priority list appears unrealistic. Forelaws on Board v. Johnson, 743 F.2d 677, 883-685 (9th Cir. 1985) (9 month statutory deadline did not excuse failure to prepare EIS). As a practical matter, such an EA would merely have to describe various candidate projects with sufficient detail to enable Task Force Members to evaluate their relative environmental benefits and detriments. It need not even be a separate document, but could be incorporated in whatever document the Technical Committee intends to provide the Task Force in support of its own priority recommendations. See 40 CFR §1502.25. A reviewing court (or the President's Council on Environmental Quality) would thus

be likely to conclude a Task Force failure to comply with NEPA §102(2)(E) was in fact based on considerations of administrative difficulty, delay, or economic cost, not on an irreconcilable statutory conflict. See, e.g., Calvert Cliff's Coordinating Committee, Inc. v. U.S. Atomic Energy Commission, 449 F.2d 1109, 1114-1115 (D.C. Cir. 1971).

INDIVIDUAL PROJECT IMPLEMENTATION

The draft policy states:

Each lead task force member will ensure that full compliance with all NEPA requirements is achieved for each of their listed projects prior to advertisements of construction bids or issuance of Federal permits.

Pursuant to NEPA §102(2)(C), an EIS (or FNSI and EA) must be prepared and considered on "every recommendation or report on proposals for...major federal actions significantly affecting the quality of the human environment." "Proposal" is defined at 40 CFR §1508.26:

"Proposal" exists at that stage in the development of an action when an agency subject to the act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (§ 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

In relevant part, 40 CFR §1502.5 moreover provides:

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (§ 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize decisions already made (§§ 1500.2(c), 1501.2, and 1502.2)....For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no-go) stage and may be supplemented at a later stage if necessary....

Given my limited knowledge of the Task Force's project review and authorization procedures, I believe a specific project is "proposed" when it is added to the priority list because this is the point at which the Task Force has a "goal"

with respect to that specific project (as opposed to the broader overall programmatic goal of restoring wetlands in coastal Louisiana). Accordingly, NEPA §102(2)(C) review of an individual project should be commenced "early enough" after placing that project on the priority list that the resulting EIS (or FNSI and EA) can make "an important contribution to the decisionmaking process" leading to the Task Force's "go-no-go" decision on project implementation.

The time at which permits and solicitations for bids are issued does not appear an appropriate deadline for completion of NEPA review. Decisions on those actions are made by individual agencies, i.e., the Corps (on projects requiring a Section 10 and/or 404 permit) or the lead Task Force member issuing the solicitation for bids. Neither action is necessarily related, either temporally or functionally, to the Task Force's decision to proceed with an individual project. NEPA and 40 CFR §1502.5 require, however, that the collective Task Force or every federal agency participating in its "go-no-go" decision² consider the environmental consequences of that decision.

In the absence of additional information, it is difficult to pinpoint the time at which the Task Force now intends to decide whether or not individual projects should be implemented. I understand, however, that the Task Force now plans to budget \$2.5 million its FY92 appropriations for development of a State Coastal Conservation Plan, \$5 million for general planning purposes, and the rest for implementation of specific projects, i.e., preparation of detailed plans and specifications and project construction. This suggests the "go-no-go" decision on a specific project proposal occurs (or should occur³) when the Task Force decides to obligate funds in its project implementation budget to a specific project, i.e., when it reserves appropriated funds for implementing that project and provides the lead agency authorization to spend those funds. NEPA review of individual project proposals must be completed by the time of that decision.

In addition to assuring compliance with the law, completing NEPA review before obligating project implementation funds would serve a practical function, i.e., assuring that public funds would not be spent on preparing detailed plans and specifications for projects subject to subsequent alteration or abandonment as a result of information developed in NEPA review. It would also be consistent with established procedures at least two of the federal agencies on the Task Force, i.e.,

² It is not at all clear that the Task Force is itself an "agency" for NEPA purposes. Is compliance with NEPA thus a collective obligation of the Task Force or an individual obligation of each of its federal agency members? See generally People, Etc. v. City of Lake Tahoe, 466 F.Supp. 527 (E.D. Cal. 1978). As long as each member considers an appropriate EA or EIS in deciding how to vote on "go-no-go" Task Force decisions, this issue should remain academic. See 40 CFR §1506.3.

³ If it has discretion to do so, an agency must develop and implement administrative procedures accomodating full compliance with NEPA. See NEPA §§101(b), 102(1), 103, 42 USC §§4331(b), 4332(1), 4333; Calvert Cliff's, supra; Forelaws on Board, supra.

the Corps and EPA, apply in their roughly analagous public works programs,⁴ rendering it unnecessary for those agencies to "reinvent the wheel" in applying their internal procedures to preparation of NEPA review documents on Task Force activities.

RECOMMENDATIONS

(1) The current draft policy should be abandoned as an unnecessary statement based on an erroneous interpretation of NEPA. Any future Task Force NEPA Compliance Policy should be drafted from a functional perspective, i.e., after identifying the functions of specific Task Force decisions and the functions NEPA review should play in those decisions.

(3) The Task Force should prepare and consider an EA describing the relative environmental merits and drawbacks of projects proposed for inclusion on the priority list before adopting that list.

(4) The Task Force should complete full NEPA review on individual projects before making its decision to fund preparation of detailed plans and specifications for those projects.

Attachment

⁴ In Corps public works programs, Congress usually makes the "go-no-go" decision (to authorize a project), but Corps recommendations are based on a "feasibility study" and NEPA review documents. In EPA's construction grants program, the Agency's decision to award funds for project implementation is based on a "facilities plan" and NEPA review documents. Normally, neither agency obligates federal funds for preparing detailed plans and specifications until completion of NEPA review.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

COASTAL WETLANDS RESTORATION PROJECT AREA MAP

Technical Committee Recommendation:

Approve the "Coastal Wetlands Restoration Project Area Map" displayed on the following page.

Additional Considerations:

The Coastal Wetlands Planning, Protection, and Restoration Act specifies in Section 303(b)(4)(A) that the Task Force identify "the entire area of the State that contains coastal wetlands." The "Coastal Wetlands Restoration Project Area Map" fulfills this requirement by outlining that area using parish boundaries. All coastal wetlands, as defined at Tab K, are expected to be contained within that boundary. The Task Force will determine whether a particular wetland within the boundary is a coastal wetland, on a case by case basis.

CORPS OF ENGINEERS, U. S. ARMY
NEW ORLEANS DISTRICT

APRIL 1990

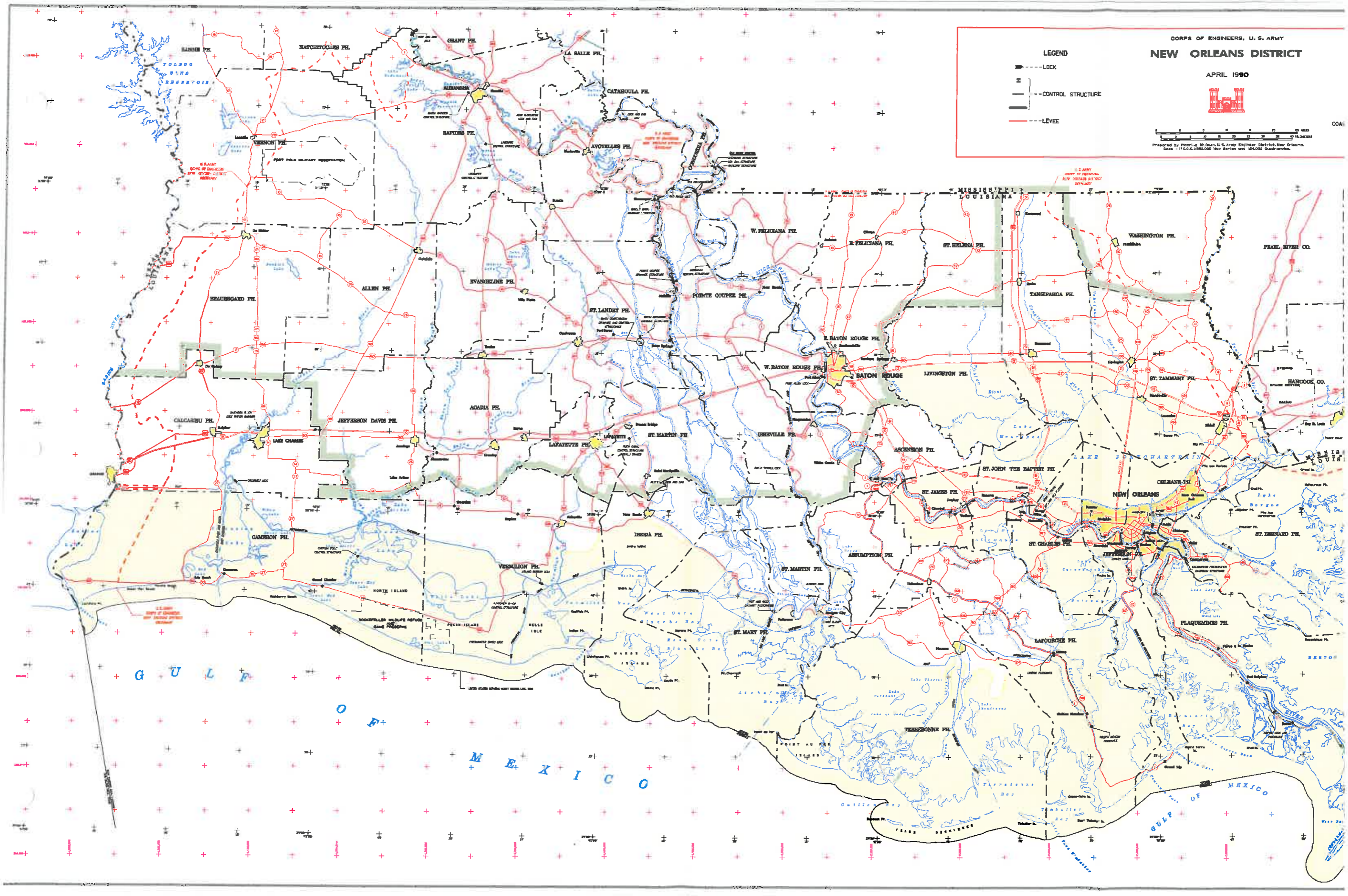


LEGEND

- LOCK
- CONTROL STRUCTURE
- LEVEE

Scale: 0 5 10 15 20 25 30 35 40 45 MILES

Prepared by Planning Branch, U.S. Army District Engineer, New Orleans, Louisiana
Scale - 1:50,000 (1:150,000 USGS Series and 1:60,000 Quadrangle)



COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

DEFINITION OF COASTAL WETLANDS

Technical Committee Recommendation:

Approve the definition of coastal wetlands displayed on the following pages.

Additional Considerations:

The Coastal Wetlands Planning, Protection, and Restoration Act does not define the term coastal wetlands. The Technical Committee has developed a definition of coastal wetlands to ensure that there will be no confusion over the types of wetlands that will be created, restored, protected, or enhanced pursuant to the Act.

Definition of Coastal Wetlands as used in Section 303 of the Coastal Wetlands, Planning, Protection, and Restoration Act

Coastal wetlands are defined as vegetated wetlands, located within the "Coastal Wetlands Restoration Project Area" which are or were subject to tidal influence prior to human intervention. These include estuarine emergent wetlands, palustrine emergent wetlands, and palustrine forested wetlands and associated beds of aquatic vegetation. The vegetated wetland component of the definition is based on existing wetland definitions (Attachment 1) and inferences made in the Act (Attachment 2).

For purposes of administering the Section 303 of the Act, four wetland types were designated to categorize coastal wetlands. These include the following:

Saline Marsh. Saline marsh is described in the Fish and Wildlife Service's wetland classification system¹ as estuarine intertidal emergent vegetation narrow-leaved persistent regular tidal regime polyhaline. E2EM5N4 is the symbol used to designate saline marsh on wetland maps using the wetland classification system. Saline marsh is typically vegetated by oyster grass (*Spartina alterniflora*), black rush (*Juncus roemerianus*), saltwort (*Batis maritima*), and salt grass (*Distichlis spicata*). Other wetland types associated with saline marsh include scrub/shrub wetlands, shell reefs, flats, streams and ponds. Generally aquatic plants do not exist in saline marsh waters along the Louisiana coast. However, widgeongrass (*Ruppia maritima*) may occur in saline marsh waters bordering the brackish marsh zone where lower salinities exist. Also, seagrass beds occur in waters associated with saline marshes located on some barrier islands. Seagrass species include shoalgrass (*Diplanthera wrightii*), turtlegrass (*Thalassia testudinum*), and manateegrass (*Cymodocea manatorum*).

Brackish Marsh. Brackish marsh is described as estuarine intertidal emergent vegetation narrow-leaved persistent irregular tidal regime mesohaline. E2EM5P5 is the symbol used to designate brackish marsh on wetland maps using the Fish and Wildlife Service's wetland classification system. Brackish marsh is typically vegetated by wiregrass (*Spartina patens*), three-cornered grass (*Scirpus olneyi*), and leafy three-square (*Scirpus maritimus*). Other wetland types associated

¹ Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. U.S. Fish Wildl. Serv. FWS/OBS-79/31, Washington, D.C. 131 pp.

with brackish marsh include scrub/shrub wetlands, flats, streams and ponds. Aquatic plants that commonly occur in brackish marsh waters include widgeongrass, common duckweed (Lemna minor), Eurasian watermilfoil (Myriophyllum spicatum), muskgrass (Chara vulgaris), coontail (Ceratophyllum demersum), and dwarf spikerush (Eleocharis parvula).

Fresh/Intermediate Marsh. This type includes fresh and low salinity coastal marshes. Fresh marsh is described as palustrine emergent vegetation. PEM is the symbol used to designate fresh marsh on wetland maps using the Fish and Wildlife Service's wetland classification system. Vegetative species composition in fresh marshes is diverse but generally includes maidencane (Panicum hemitomon), pennywort (Hydrocotyle sp.), pickerelweed (Pontederia cordata), alligatorweed (Alternanthera philoxeroides), and bulltongue (Sagittaria sp.). Aquatic plants that commonly occur in fresh marsh waters include common duckweed, coontail, Eurasian watermilfoil, spikerush, and muskgrass. Intermediate marsh is described as estuarine intertidal emergent vegetation narrow-leaved persistent irregular tidal regime oligohaline. Intermediate marsh has been combined with fresh marsh because its habitat values are similar and it generally lies between fresh and brackish marshes in the form of a relatively narrow band. E2EM5P6 is the symbol used to designate intermediate marsh on wetland maps. Vegetative composition is usually a mixture of fresh marsh and brackish marsh species and typically includes wiregrass, bulltongue, roseau (Phragmites australis), bullwhip (Scirpus californicus), sawgrass (Cladium jamaicense), Walter's millet (Echinochloa walteri), and cow pea (Vigna luteola). Aquatic plants that commonly occur in intermediate marsh waters include widgeongrass, dwarf spikerush, muskgrass, coastal waterhyssop (Bacopa monnieri), Eurasian watermilfoil, and southern naiad (Najas guadalupensis). Other wetland types associated with this marsh type include scrub/shrub wetlands, small "islands" of cypress swamp, flats, streams and ponds.

Cypress-tupelo Swamp. Cypress-tupelo swamp is described as palustrine forested broad-leaved deciduous/needle-leaved deciduous. PF01/2 is the symbol used to designate cypress-tupelo swamp on wetland maps using the Fish and Wildlife Service's wetland classification system. Tree species typically include baldcypress (Taxodium distichum), tupelogum (Nyssa aquatica), and red maple (Acer rubrum). Other wetland types associated with cypress swamp include relatively small areas of scrub/shrub wetlands fresh marsh, streams and ponds. Aquatic beds and emergents may characterize the

understory. Aquatic beds usually consist of floating vegetation, water hyacinth (*Eichornia crassipes*) and duckweed (*Lemna* sp.). The understory may include saplings of the overstory species and buttonbush (*Cephalanthus occidentalis*).

Attachment 1.

Wetland Definitions (Source-Federal Wetlands Delineation Manual):

Section 404 of the Clean Water Act (CE & EPA)

Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Food Security Act of 1985 (SCS) and Section 301 of the Emergency Wetlands Resources Act of 1986 (FWS)

Areas that have a predominance of hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.*

Classification of Wetlands and Deepwater Habitats of the U.S. (FWS)

Lands that are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes, (2) the substrate is predominantly undrained hydric soil, and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

* The Food Security Act wetland definition excludes lands in Alaska identified as having a high potential for agricultural development and a predominance of permafrost soils.

Attachment 2.

The Coastal Wetlands Planning, Protection, and Restoration (Act) does not specifically define coastal wetlands. However, in Section 303.(b)(3), the Task Force is directed to integrate the Corps' Louisiana Comprehensive Coastal Wetlands Feasibility Study and the State's Coastal Wetlands Conservation and Restoration Plan in developing a restoration plan to address coastal wetland loss in Louisiana. The State's plan concentrates on vegetated wetlands and incorporates measures to arrest the loss of vegetated wetlands.

The report prepared for the Corps' study addressed vegetated wetland loss, described major wetland types as marsh and forested wetlands, noted the conversion of wetlands to open water, and noted the national significance of the amount and loss of coastal wetlands in Louisiana. In the Fish and Wildlife Service's 1984 wetland status and trend report, Louisiana's coastal marsh was identified as a national problem area because of the high rate of loss experienced there. The report noted that the problem primarily resulted from the increasing submergence of coastal marshes.

Section 304. of the Act provides for the development of a conservation plan for Louisiana coastal wetlands that has as its goal the achievement of no net loss of coastal wetlands as a result of development activities. As referred to previously, the concern over wetland loss in coastal Louisiana stems from the loss of vegetated wetlands.

Section 305. of the Act provides for granting funds to coastal states for implementing coastal wetlands conservation projects. The Act encourages projects that are consistent, with the National Wetlands Priority Conservation Plan (Plan) prepared by Fish and Wildlife Service for the Department of Interior in 1989. The purpose of the Plan is priority planning for wetland acquisition. Coastal vegetated wetlands would rank high under the criteria used for prioritizing acquisition sites whereas open water areas would rank much lower. The assessment criteria consider wetland losses, threats, functions and values.

Section 307. of the Act authorizes the Corps of Engineers to study the feasibility of utilizing existing projects to increase the transport of sediment for building land and nourishing wetlands. As referred to previously, the concern expressed over Louisiana coastal wetland loss has been the loss of vegetated wetlands, not open water. Land building would occur at the expense of open water. Nourishing wetlands with sediment implies offsetting the effects of processes resulting in the submergence of marshes. By succeeding in wetland nourishment, vegetated wetland loss would be reduced with reductions in open water gains.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

PRIORITY PROJECT LIST DEADLINE

Ms. Marcia Jones of Senator Breaux's staff informed Mr. Dave Carney of the New Orleans District that Senator Breaux would like the Task Force to transmit the Priority Project List to Congress by November 28, 1991, as specified in the Coastal Wetlands Planning, Protection, and Restoration Act. Ms. Jones was responding to a inquiry made by Colonel Gorski at the June 17, 1991 Task Force meeting.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

STATUS OF THE CANDIDATE PROJECT FACT SHEETS

The Planning and Evaluation Subcommittee members completed the fact sheet displayed on the following pages for each coastal wetlands restoration project they wished to submit as a candidate for the Priority Project List. The Environmental Work Group, under the direction of the Planning and Evaluation Subcommittee, is presently conducting Wetland Value Assessments on the candidate coastal wetlands restoration projects identified by the Planning and Evaluation Subcommittee.

The Planning and Evaluation Subcommittee will present the draft Priority Project List to the Technical Committee for their approval at the end of September.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

CANDIDATE PROJECT FACT SHEET

1. TITLE PAGE (See Attached Sample Format)

2. PROJECT DESCRIPTION

a. Location

1. Brief description and map of the general project location.
2. Latitude and longitude of the center of the project impact area.

b. Justification

1. Brief description of the problems, needs, and opportunities to be addressed by the project.

c. Objectives (Briefly list or describe)

d. Project Features

1. USGS 1:24,000-scale map of the project area displaying all project features and the anticipated extent of the area affected by the project.
2. Brief description of the proposed measures, including the type and number of structures or other features proposed, and any pertinent information on the proposed project operation.

3. ANTICIPATED BENEFITS

- a. Type(s) and acres of coastal wetlands enhanced, and the degree and nature of the enhancement.
- b. Type(s) and acres of coastal wetlands created.
- c. Type(s) and acres of coastal wetlands protected.
- d. Type(s) and acres of coastal wetlands restored.
- e. Duration (life expectancy) of coastal wetland benefits.
- f. Benefits to coastal wetland dependent fish and wildlife populations.
- g. Other significant benefits.

4. ANTICIPATED ADVERSE EFFECTS

- a. Type(s) and acres of coastal wetlands and other habitats adversely affected by the project.
- b. Conflicts with other projects and programs.

5. COSTS

- a. Engineering and design.
- b. Supervision and administration of engineering and design.
- c. Project construction.
- d. Supervision and inspection of construction contract(s).
- e. Operation and maintenance (average annual costs and duration in years).
- f. Project monitoring.
- g. Source(s) of the cost estimates.

6. STATUS OF ENVIRONMENTAL COMPLIANCE

- a. NEPA.
- b. Sections 10/404.
- c. Louisiana Coastal Management Program.
- d. Louisiana Water Quality Certification.
- e. Endangered Species Act.

7. PROJECT IMPLEMENTATION SCHEDULE

- a. Engineering and design start date.
- b. Engineering and design finish date.
- c. Construction start date.
- d. Construction finish date.

8. POTENTIAL FUNDING SOURCES

- a. Federal funding source(s).
- b. Non-federal funding source(s).

SAMPLE FORMAT

PECAN ISLAND FRESHWATER INTRODUCTION

Candidate Project
for the
Priority Project List
of the
Coastal Wetlands Planning, Protection, and Restoration Act

PROPOSED BY

Louisiana Department of Natural Resources - Coastal Restoration Division

July 22, 1991

POINT OF CONTACT: John Doe
PHONE: (504) 261-6161

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

STATUS OF FISCAL MATTERS

Programming of FY 1992 Funds:

A representative from the Program Management Office of the New Orleans District, U.S. Army Corps of Engineers, will report to the Task Force on the status of the Washington-level discussions on this subject.

Distribution of FY 1992 Funds:

A representative from the Office of the Comptroller of the New Orleans District, U.S. Army Corps of Engineers, will report to the Task Force on the funds distribution plan currently under review within the U.S. Army Corps of Engineers.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

ADDITIONAL AGENDA ITEMS

Each Task Force member has the opportunity at this point to propose additional items/issues for the consideration of the Task Force.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

DATE/LOCATION OF THE NEXT TASK FORCE MEETING

Recommendation For Task Force Approval:

DATE: September 23, 1991

TIME: 9:00 a.m.

LOCATION: Assembly Room
New Orleans District Office
U.S. Army Corps of Engineers

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

REQUEST FOR WRITTEN QUESTIONS FROM THE PUBLIC

All Task Force meetings are open to the public. Interested parties may submit a completed "Question Submittal Card" to the Task Force Chairman at this time. Questions and comments will be addressed at the next regularly scheduled Task Force meeting.

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
 - Administrator, EPA
 - Governor, Louisiana
 - Secretary, Interior
 - Secretary, Agriculture
 - 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 \$5 million annually to fund Task Force preparation 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.

* 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,

Reports.

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- Reports.

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

Director, and Administrator shall have ninety days to determine whether the modifications are sufficient to bring the plan into compliance with requirements of subsection (d) of this section.

(3) **APPROVAL OF MODIFIED PLAN.**—If the Secretary, the Director, and the Administrator fail to approve or disapprove the conservation plan, as modified, within the ninety-day period following the date on which it was submitted to them by the Governor, such plan, as modified, shall be deemed to be approved effective upon the expiration of such ninety-day period.

(f) **AMENDMENTS TO CONSERVATION PLAN.**—If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; except that minor changes to such plan shall not be subject to the requirements of this section.

(g) **IMPLEMENTATION OF CONSERVATION PLAN.**—A conservation plan approved under this section shall be implemented as provided therein.

(h) **FEDERAL OVERSIGHT.**—

(1) **INITIAL REPORT TO CONGRESS.**—Within one hundred and eighty days after entering into the agreement required under subsection (a) of this section, the Secretary, the Director, and the Administrator shall report to the Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including and accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) **REPORT TO CONGRESS.**—Twenty-four months after the initial one hundred and eighty day period set forth in paragraph (1), and at the end of each twenty-four-month period thereafter, the Secretary, the Director, and the Administrator shall, report to the Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

SEC. 305 NATIONAL COASTAL WETLANDS CONSERVATION GRANTS.

16 USC 3954.

(a) **MATCHING GRANTS.**—The Director shall, with the funds made available in accordance with the next following section of this title, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) **PRIORITY.**—Subject to the cost-sharing requirements of this section, the Director may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Director shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces. In addition, priority consideration shall be given to coastal wetlands conservation projects in maritime forests on coastal barrier islands.

(c) **CONDITIONS.**—The Director may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) **COST-SHARING.**—

(1) **FEDERAL SHARE.**—Grants to coastal States of matching moneys by the Director for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects: except that such matching moneys may be used for payment of not to exceed 75 percent of the costs of such projects if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces.

(2) **FORM OF STATE SHARE.**—The matching moneys required of a coastal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(3) **IN-KIND CONTRIBUTIONS.**—In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(e) **PARTIAL PAYMENTS.**—

(1) The Director may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) The Director may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

(f) **WETLANDS ASSESSMENT.**—The Director shall, with the funds made available in accordance with the next following section of this title, direct the U.S. Fish and Wildlife Service's National Wetland Inventory to update and digitize wetlands maps in the State of Texas and to conduct an assessment of the status, condition, and trends of wetlands in that State.

Texas.

16 USC 3955.

SEC. 306. DISTRIBUTION OF APPROPRIATIONS.

(a) **PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.**—Of the total amount appropriated during a given fiscal year to carry out this title, 70 percent, not to exceed \$70,000,000, shall be available, and shall remain available until expended, for the purposes of making expenditures—

(1) not to exceed the aggregate amount of \$5,000,000 annually to assist the Task Force in the preparation of the list required under this title and the plan required under this title, including preparation of—

- (A) preliminary assessments;
- (B) general or site-specific inventories;
- (C) reconnaissance, engineering or other studies;
- (D) preliminary design work; and
- (E) such other studies as may be necessary to identify and evaluate the feasibility of coastal wetland restoration projects;

(2) to carry out coastal wetlands restoration projects in accordance with the priorities set forth on the list prepared under this title;

(3) to carry out wetlands restoration projects in accordance with the priorities set forth in the restoration plan prepared under this title;

(4) to make grants not to exceed \$2,500,000 annually or \$10,000,000 in total, to assist the agency designated by the State in development of the Coastal Wetlands Conservation Plan pursuant to this title.

(b) **COASTAL WETLANDS CONSERVATION GRANTS.**—Of the total amount appropriated during a given fiscal year to carry out this title, 15 percent, not to exceed \$15,000,000 shall be available, and shall remain available to the Director, for purposes of making grants—

(1) to any coastal State, except States eligible to receive funding under section 306(a), to carry out coastal wetlands conservation projects in accordance with section 305 of this title; and

(2) in the amount of \$2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) **NORTH AMERICAN WETLANDS CONSERVATION.**—Of the total amount appropriated during a given fiscal year to carry out this title, 15 percent, not to exceed \$15,000,000, shall be available to, and shall remain available until expended by, the Secretary of the Interior for allocation to carry out wetlands conservation projects in any coastal State under section 8 of the North American Wetlands Conservation Act (Public Law 101-233, 103 Stat. 1968, December 13, 1989).

SEC. 307. GENERAL PROVISIONS.

16 USC 3956.

(a) **ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.**—The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

Irrigation.
Navigation.
Flood control.

(b) **STUDY.**—The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

SEC. 308. CONFORMING AMENDMENT.

16 U.S.C. 777c is amended by adding the following after the first sentence: "The Secretary shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of

**Statement on Signing the Bill on
Wetland and Coastal Inland Waters
Protection and Restoration Programs
November 29, 1990**

Today I am signing H.R. 5390, "An Act to prevent and control infestation of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes." This Act is designed to minimize, monitor, and control nonindigenous species that become established in the United States, particularly the zebra mussel; establish wetlands protection and restoration programs in Louisiana and nationally; and promote fish and wildlife conservation in the Great Lakes.

Title III of this Act designates a State official not subject to executive control as a member of the Louisiana Coastal Wetlands Conservation and Restoration Task Force. This official would be the only member of the Task Force whose appointment would not conform to the Appointments Clause of the Constitution.

The Task Force will set priorities for wetlands restoration and formulate Federal conservation and restoration plans. Certain of its duties, which ultimately determine funding levels for particular restoration projects, are an exercise of significant authority that must be undertaken by an officer of the United States, appointed in accordance with the Appointments Clause, Article II, sec. 2, cl. 2, of the Constitution.

In order to constitutionally enforce this program, I instruct the Task Force to promulgate its priorities list under section 303(a)(2) "by a majority vote of those Task Force members who are present and voting," and to consider the State official to be a nonvoting member of the Task Force for this purpose. Moreover, the Secretary of the Army should construe "lead Task Force member" to include only those members appointed in conformity with the Appointments Clause.

George Bush

The White House,
November 29, 1990.