



Louisiana Sea Grant Legal Program

Louisiana Coastal Law E-mail Update Issue #8, December 2001

WEBSITES OF INTEREST

Center for Watershed Protection

<http://www.cwp.org>

The Center for Watershed Protection works with local, state and federal government agencies, as well as watershed organizations and the general public to provide sound information on the protection and restoration of urban watersheds. The site contains information on such topics as watershed planning, site design, erosion control and conservation. A number of model ordinances addressing urban water pollution issues are provided as examples and can be downloaded from the site. An extensive links page offers a list of other websites dedicated to similar issues and causes. Furthermore, the interested person can sign up to receive updates and news from the Center via email.

There is a connection to Stormwater Manager's Resource Center website, which the organization also maintains. (<http://www.stormwatercenter.net>)

Commission on Ocean Policy

<http://oceancommission.gov>

The Commission on Ocean Policy was established with the passage of the Oceans Act of 2000. The website provides information on the Commission's members and the legislative history of the Oceans Act. News and press releases are also kept updated at the site. A calendar of Commission's activities and meeting is available, as well as specific meeting information, such as meeting minutes.

Environmental Working Group

<http://www.ewg.org>

The Environmental Working Group (EWG) is dedicated to research on health and the environment. The EWG website contains reports put out by EWG on such topics as farm subsidies, pesticides, drinking water, enforcement and air pollution. It also provides news updates on these and associated topics. The site houses an extensive database of information on farm subsidies, which is searchable by state, parish, city and zip code. Information on a farm by farm basis is provided, listing the type and amount of subsidies received. Another interesting feature is titled, the dirty money tracker, which is a database of information collected from the Federal Election Commission. It allows a person to view from who and how much money was received by a candidate from selected corporations and coalitions. The database can be searched by PAC or candidate.

FEDERAL LEGISLATION

2002 Farm Bill, S.1628 and HR. 2646

Both the Senate and the House of Representatives have introduced farm bills for 2002 (S.1628 and HR. 2646, respectively). Many of the conservation components of these bills are similar. Both of the bills would extend the Conservation Reserve Program (CRP), Wetlands Reserve Program (WRP), Environmental Quality Incentives Program (EQIP), Wildlife Habitat Incentives Program (WHIP), and the Farmland Protection Program (FPP) through the year 2011. The acreage allowed for enrollment in the CRP program would be increased: By the Senate to 40 million acres and by the House to 39.2 million acres (from the current 36.4 million acres). Both bills would also allow some measure of "economic use" of the CRP lands (e.g., haying, grazing, wind turbines). Both bills would also give the Wetlands Pilot Program permanent authority. The WRP's allowable annual acreage would be increased in both bills: To 250,000 acres by the Senate and to 150,000 acres by the House. Both bills would increase EQIP's annual funding: To 950 million dollars by the Senate and 1.085 billion dollars by the House. Both bills would change the contract length requirements of EQIP. The Senate bill would drop the contract length from five to three years and the House bill would allow for selection of the length of the contract between one and ten years. The Senate and House bills would also give the Secretary of Agriculture some discretion to provide waivers for producers under limited circumstances (e.g., authority to create incentives programs for certain types of producers). The Senate bill would increase WHIP funding to 100 million dollars annually (incrementally through 2006), while the House bill would increase the funding to 50 million dollars annually (incrementally through 2011). Both bills would rename the Agricultural Land Protection Program the Farmland Protection Program. The FPP would be increased by the Senate bill to 250 million dollars annually (incrementally through 2006). The House bill would increase the FPP to 50 million dollars annually. Both bills would allow for the enrollment of land in the FPP that contains historically or archaeologically sensitive resources. The House and Senate bills would both create the Grassland Reserve Program (GRP). The general purposes of this program would be to purchase permanent and long-term leases on grasslands and prairie lands that are in danger of development. The Senate bill would allow for up to one million acres to be enrolled in the GRP program, while the House bill would allow for up to two million acres.

The Conservation Security Act, H.R. 1949 or S. 932 – introduced by Sen. Tom Harkin (D-Iowa), Sen. Gordon Smith (R-Ore.), Rep. John Thune (R-S.D.) and Rep. Marcy Kaptur (D-Ohio)

This Act was introduced by a bipartisan group of lawmakers in both the Senate and House of Representatives. The Conservation Security Act (CSA) was designed to create a voluntary, incentive-based program to reward farmers and ranchers for incorporating conservation practices into their production operations. Farmers would be paid to adopt new conservation practices and reward those already practicing good ecological stewardship of their land. This differs from the current, Conservation Reserve Program, because CSA would offer money to landowners who embrace conservation techniques on land currently used for farming. It is currently in committee and has not faced a vote in either house.

Conservation and Reinvestment Act (S. 1328 , HR. 701)

The Conservation and Reinvestment Act, proposed by Louisiana Senator Mary Landrieu as Senate Bill S.1328 (also introduced into the House of Representatives as HR. 701), creates the Conservation and Reinvestment Act Fund (CRAF). Both the House and Senate bills are similar. The CRAF serves as a location for the deposit of certain oil and gas lease revenues from the Outer Continental Shelf as well as monies that were allocated, but undisbursed, to coastal States for impact assistance and coastal conservation. If passed, the CRAF funds will be used to fund programs related to coastal conservation, endangered species protection, and land restoration under such Acts as: the Land and Water Conservation Act of 1965, the Pittman-Robertson Wildlife Restoration Act, the Urban Park and Recreation

Recovery Act of 1978, the National Historic Preservation Act, and the National Maritime Heritage Act of 1994.

Pipeline Safety Improvement Act, S. 235 (H.R. 459, S. 141, S. 299)

This bill is focused on enhanced safety, public awareness and environmental protection for pipeline transportation activities. A number of related safety bills have been introduced in the Senate, as well as one in the House of Representatives. S. 235 promotes recommendations made in the Department of Transportation (DOT) Inspector General's Report (RT-2000-069). Pipeline planning to reduce accidents and injuries and new regulations targeting risk management, periodic pipeline integrity assessment and monitoring are required in this proposed legislation. Furthermore, the bill proposes numerous studies and evaluations to be conducted to enhance knowledge of pipeline safety and creates the Pipeline Integrity Technical Advisory Committee. At this time S. 235 has been referred to the House subcommittee (S. 141 and S. 299 are in Senate Committee and H.R. 459 is in House Subcommittee).

CLEAN WATER STATE REVOLVING FUND (CWSRF)

The CWSRF provides funding, commonly in the form of low-interest rate loans for various point source and nonpoint source pollution management projects. These loans have traditionally been used to finance municipal wastewater treatment projects. The U.S. Environmental Protection Agency (EPA) suggests that, as long as a project is part of an EPA-approved Nonpoint Source Management Plan or part of the National Estuary Program, the CWSRF can be used to fund many more projects than the traditional point source endeavors. A considerable amount of funding is available: 51 CWSRFs (50 states and Puerto Rico) have a total of 21 billion dollars available to fund water quality projects. These funds are available based on state-specific regulations. Louisiana's CWSRF program, the State Revolving Fund, is administered through the Louisiana Department of Environmental Quality (DEQ) and is enabled by La. R.S. 30:2078. Information is available at <http://www.deq.state.la.us/financial/srf/index.htm>. The Louisiana program largely conforms to the federal model. However, only point source pollution control projects have been funded in Louisiana by the State Revolving Fund to date. Funding is available in Louisiana for both public and private entities for nonpoint source pollution management projects. The nonpoint source funding may provide a significant means of achieving a number of conservation goals in Louisiana, as is evidenced by the use of these loans in other states. For example, Missouri has used the CWSRF loans to create animal waste facilities; Ohio has used CWSRF loans to create best management practices for agricultural nonpoint source control; and Washington has used the loans to purchase wetland areas for conservation purposes. This underused source of funding should be considered a viable means for furthering nonpoint source pollution controls in Louisiana as has been done in 17 other states.

OILFIELD WASTE, STORAGE, TREATMENT AND DISPOSAL RULES

Amendments to the state's oilfield waste storage, treatment and disposal rules have been promulgated by the LA Department of Natural Resources (LDNR), Office of Conservation. The following is a summary of the major changes, as enumerated in the November 28, 2001 press release sent out by LDNR.

Generators will be required to characterize the exploration and production (E&P) waste they generate.

- Generators of E&P waste will be allowed the option to treat and/or dispose of their waste at state permitted commercial facilities or Department of Environmental Quality (DEQ) permitted facilities as defined in provisions of state law.
- Under the location criteria amendments of state law, commercial facilities may not be located:

- a. within one-quarter mile of a public water supply well, within 1,000 feet of a private water supply well or within a DEQ designated source water protection or wellhead protection area for facilities permitted after January 1, 2002
 - b. where Type A and B facilities, Class II disposal wells, commercial facility storage containers, waste treatment facilities and related equipment, are located within 500 feet of a residential, commercial, or public building, church, school or hospital
 - c. where the perimeter of any Type A land treatment cell is located within restricted distances from a residential or public building, church, school, or hospital for treatment of waste (A Type A facility is a commercial E&P Waste disposal facility that utilizes technologies appropriate for the receiving, storage, treatment or disposal of E&P waste solids and fluids. A Type B facility is a commercial E&P Waste disposal facility that utilizes underground injection technology for the storage, treatment, and disposal of only saltwater or other E&P waste fluids.)
- Commercial land treatment facilities may not receive, store, treat, or dispose of gas plant waste that exceeds the maximum permissible concentration (MPC) criteria of 3,198 mg/kg for total benzene.
 - All commercial facility operators will be required to submit and maintain a detailed Waste Management and Operations Plan.
 - The Office of Conservation can refuse to issue, reissue or reinstate a commercial facility permit or authorization to any individual, partnership or other entity which has been found to have violated Statewide Order No. 29-B or has other violations which include failure to properly close any oil, gas or commercial facility or site, failure to pay fees, or failure to pay assessed civil penalties.

Final Statewide Order No. 29-B can be found at: <http://www.dnr.state.la.us/cons.final-ep-rule.pdf>