

**COASTAL IMPACT ASSISTANCE PROGRAM
STATE PLAN GUIDELINES**

**U.S. Department of the Interior
Minerals Management Service
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APPENDIX A. SECTION 31 OF THE OUTER CONTINENTAL SHELF LANDS ACT (43 U.S.C. § 1356a) (AS AMENDED BY SECTION 384 OF THE ENERGY POLICY ACT OF 2005, PUB. L. 109-58 (AUGUST 8, 2005)): COASTAL IMPACT ASSISTANCE PROGRAM 9

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ABBREVIATIONS AND ACRONYMS

Act	Energy Policy Act of 2005
C.F.R.	Code of Federal Regulations
CIAP	Coastal Impact Assistance Program
CPS	eligible coastal political subdivision
CZMP	Coastal Zone Management Program
FY	fiscal year
MHW	mean high water
MMS	Minerals Management Service
OCS	Outer Continental Shelf
Plan	Coastal Impact Assistance Plan
Secretary	Secretary of the Department of the Interior
State	eligible producing State
U.S.	United States
U.S.C.	United States Code

1. INTRODUCTION

Section 384 of the Energy Policy Act of 2005 (Act) has created the Coastal Impact Assistance Program (CIAP) by amending Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. § 1356a; Appendix A). Under the provisions of the Act, the authority and responsibility for the management of CIAP is vested in the Secretary of the Department of the Interior (Secretary). The Secretary has delegated this authority and responsibility to the Minerals Management Service (MMS).

Under Section 1356a(b)(1) of the Act, MMS shall disburse \$250 million for each fiscal year (FY) 2007 through 2010 to eligible producing States (State) and coastal political subdivisions (CPS). The funds allocated to each State are based on the proportion of qualified Outer Continental Shelf (OCS) revenues offshore the individual State to total qualified OCS revenues from all States. In order to receive CIAP funds, States are required to submit a coastal impact assistance plan (Plan) that MMS must approve prior to disbursing any funds (Section 1356a(c)(2)(A)). All funds will be disbursed through a grant process.

This guidance has been developed by MMS to provide the information necessary for States to develop a Plan and submit it to MMS. States should develop Plans in coordination with their CPS's. Pursuant to the Act (Section 1356a(c)(1)(A)), a State must submit its Plan no later than July 1, 2008. The MMS's goal is to ensure Plans are approved and funds disbursed in the most efficient and expeditious manner possible.

2. ELIGIBLE PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS

A *producing State* is defined in the Act (Section 1356a(a)(9)(A) and (B)) as having a coastal seaward boundary within 200 nautical miles of the geographic center of a leased tract within any area of the OCS. This does not include a State with a majority of its coastline subject to leasing moratoria, unless production was occurring on January 1, 2005, from a lease within 10 nautical miles of the coastline of that State. States eligible to receive funding are Alabama, Alaska, California, Louisiana, Mississippi, and Texas.

The Act also specifies eligibility criteria for CPS's (Section 1356a(a)(1) and (8)). A *political subdivision* is defined as "the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs." The term *coastal political subdivision* is further defined in the Act as "a political subdivision of a coastal State any part of which political subdivision is (A) within the coastal zone (as defined in Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. § 1453)) as of the date of enactment of the Energy Policy Act of 2005 [August 8, 2005]; and (B) not more than 200 nautical miles from the geographic center of any leased tract." Given these criteria, MMS, in consultation with the States, has determined 67 CPS's are eligible to receive CIAP funding (Appendix B).

3. COASTAL IMPACT ASSISTANCE PROGRAM ALLOCATIONS

The MMS shall determine CIAP funding allocations to States and CPS's using the formulas mandated by the Act (Section 1356a(b)). The Act directs that the funds allocated to States and CPS's for FY 2007 and 2008 be determined using qualified OCS revenues received for FY 2006; FY 2009 and 2010 funds shall be determined using the amount of qualified OCS revenues received for FY 2008.

The Act requires a minimum annual allocation of 1 percent to each State and provides that 35 percent of each State's share shall be allocated directly to its CPS's. A State or CPS may not receive less than its allocation unless MMS finds that the proposed uses of funds are inconsistent with the Act (Chapter 4.1) or if a State or CPS chooses to relinquish some or all of its allotted funds.

On April 17, 2007, MMS published the FY 2007 and 2008 allocations for each State and CPS, (www.mms.gov/offshore/CIAPmain.htm). The MMS intends to publish the allocations for FY 2009 and 2010 distributions on or before April 15, 2009.

4. COASTAL IMPACT ASSISTANCE PROGRAM FUNDS

The CIAP funds will be disbursed to States and CPS's through a noncompetitive grant process. For planning purposes, grant recipients shall comply with all applicable sections of 43 C.F.R. Part 12, *Administrative and Audit Requirements and Cost Principles for Assistance Programs*. Guidelines for the grant process are available on the CIAP website: www.mms.gov/offshore/CIAPmain.htm.

4.1. AUTHORIZED USES OF FUNDS

The Act (Section 1356a(d)(1)) stipulates that a State or CPS shall use CIAP funds only for one or more of the following authorized uses:

1. projects and activities for the conservation, protection, or restoration of coastal areas, including wetland;
2. mitigation of damage to fish, wildlife, or natural resources;
3. planning assistance and the administrative costs of complying with CIAP;
4. implementation of a federally-approved marine, coastal, or comprehensive conservation management plan; and
5. mitigation of the impact of OCS activities through funding of onshore infrastructure projects and public service needs.

All CIAP funds must be used directly for an authorized use (Section 1356a(d)(1)). The use of CIAP funds to conserve, restore, enhance, and protect renewable natural resources is an example of an authorized use. Using CIAP funds to support litigation or to fund publicity or lobbying efforts for purposes of influencing or attempting to influence a member of the U.S. Congress or an agency of the Federal Government (43 C.F.R. Part 18) would not be an authorized use.

States and CPS's shall be responsible to demonstrate in their proposed project descriptions (Chapter 5.2.7) that each proposed project is consistent with one or more of the five authorized uses. The primary use or benefit of a project shall determine its authorized use (Chapters 5.2.6 and 5.2.7). All CIAP projects do not need to be undertaken solely within a State's coastal zone, but project benefits should flow to the coastal zone.

For CIAP purposes, land acquisition for the protection or restoration of wetlands would be an example of Authorized Use #1, while creation of an artificial reef to mitigate damage to fish populations would be an example of Authorized Use #2.

For Authorized Use #3, administrative costs may include costs associated with preparing and managing the Plan. Such costs could include, but are not limited to, Plan implementation and oversight, reasonably justified travel expenses associated with Plan development and management (including travel to Washington D.C. for CIAP workshops and any necessary meetings or coordination efforts held within or reasonably near States that are eligible to receive CIAP funding), copying and publication costs, and costs incurred for public meetings, notices, and other coordination efforts. They do not include those administrative costs (direct or indirect) associated with the actual performance of the project.

Under Authorized Use #4, examples of federally approved plans may include, but are not limited to, Coastal Zone Management Plans and Coastal and Estuarine Land Conservation Program Plans.

For Authorized Use #5, *infrastructure* means public facilities or systems needed to support commerce and economic development; it may include, but is not limited to, buildings, roads, trails, parks, bridges, utility lines, wastewater treatment facilities, detention/retention ponds, seawalls, breakwaters, piers, and port facilities. Funding of infrastructure projects encompasses land acquisition, new construction, and upgrades and renovations to existing facilities or systems, but does not include maintenance or operating costs for the facilities or systems. Land acquisition and construction of infrastructure may occur under Authorized Uses #1, #2, and #4, in addition to Authorized Use #5.

Any infrastructure constructed entirely above mean high water (MHW) will be considered as *onshore infrastructure*. Any infrastructure or portion of infrastructure constructed below MHW is not onshore infrastructure. The MHW is the standard the State uses, but in the absence of a standard it will mean the

average elevation of high water recorded from a rising tide at a particular point or station over a considerable period of time, usually 19 years.

Any onshore infrastructure projects undertaken under Authorized Use #5 must directly mitigate impacts of OCS activities (Section 1356a(d)(1)(E)). Any other projects undertaken under Authorized Use #5 must directly mitigate impacts of OCS activities *and* meet a public service need (1356a(d)(1)(E)). The burden is on the State or CPS to demonstrate that a proposed project mitigates the impact of OCS activities and (where necessary) meets a public service need.

4.2. RESTRICTIONS ON THE USE OF FUNDS

4.2.1. Cost Sharing or Matching of Funds

The Coastal Impact Assistance Program does not require States or CPS's to cost share or match CIAP funds.

The statute creating CIAP is neutral on the use of CIAP funds for cost sharing or matching requirements with other Federal programs (grant programs, cooperative agreement programs, and various other forms of Federal assistance). Thus, the determination of whether CIAP funds can be used to meet another Federal program's cost sharing or matching requirement depends upon whether the other Federal program's authorizing statutory language permits the use of Federal funds for cost sharing or matching. The agency charged with administering the Federal program that contains the cost sharing or matching requirement is responsible for making that determination.

States and CPS's will be required to submit, with their grant application, a letter from the other Federal agency (the agency charged with administering the program that includes the cost sharing or matching requirement) containing a determination that the other agency's program allows the use of Federal funds to meet cost sharing or matching requirements.

4.2.2. Funds Distribution Limitation

Pursuant to the Act (Section 1356a(d)(3)), not more than 23 percent of the amounts received by a State or CPS for any one fiscal year shall be used for Authorized Use #3 (planning assistance and the administrative costs of complying with CIAP) and Authorized Use #5 (mitigation of the impact of OCS activities through funding of onshore infrastructure projects and public service needs). For Authorized Use #5, States and CPS's should describe in their project description how the project will mitigate the impact of OCS activities (Chapter 5.2.7).

Land acquisition and construction of infrastructure under Authorized Uses #1, #2, and #4 are not subject to the 23 percent limitation.

4.3. COMPLIANCE WITH AUTHORIZED USES OF FUNDS

If MMS determines that any expenditure made by a State or CPS is inconsistent with the uses authorized under the Act (Chapter 4.1), MMS shall not distribute additional CIAP funds to that State or CPS until such time as all amounts obligated for unauthorized uses have been repaid or reobligated to authorized uses (Section 1356a(d)(2)).

4.4. INCURRING COSTS BEFORE PLAN APPROVAL

The MMS shall not disburse any CIAP funds to a State or CPS until MMS has approved the State's Plan and the grant application for a project. If a State or CPS chooses to begin work on a proposed project prior to approval, it does so at its own risk. Only those costs incurred after August 8, 2005, the Act's enactment date, which are in compliance with the Act and all other applicable statutes, regulations, policies, and guidelines, shall be considered for funding.

4.5. ESCROW ACCOUNT

As authorized in the Act (Section 1356a(b)(5)(B)), all CIAP funds shall be held in a U.S. Treasury account. Any interest shall accrue to the benefit of the Federal Government (43 C.F.R. §§ 12.61(h) and (i)).

Funds disbursement will be contingent upon Plan and grant approval. If a State is not making a good faith effort to develop, submit, or revise its Plan (Chapter 5.1), MMS may allocate those funds to the remaining States and CPS's.

4.6. SUB-GRANTS AND PROJECT FUNDING

Only States and CPS's shall receive CIAP funds. States and CPS's, however, may issue sub-grants to other State or local agencies, universities, or other entities so long as such sub-grants and their respective projects are explicitly described in its grant application.

States and CPS's may also combine their allocations to fund mutually beneficial projects. The location of all such projects and the funding combinations for the project must be described in the State's Plan and subsequent grant applications (Section 1356a(c)(2)(B)).

4.7. TIME LIMITATION OF FUNDING

The Act does not provide a time limit for the use of CIAP funds. However, as Federal Procurement Law requires grants to have performance periods, the MMS will issue grants for a 1-, 2-, 3- or 4-year award period in which funds should be obligated. A no-cost extension of the award may be requested by a State or CPS; MMS will consider these requests on a case by case basis.

5. COASTAL IMPACT ASSISTANCE PLAN

In order to receive coastal impact assistance, the Governor of each State must submit a Plan to MMS for review and approval (Section 1356a(c)(1)(A)). In preparing the Plan, a Governor must solicit local input and provide for public participation in the development of the Plan (Section 1356a(c)(1)(B)).

5.1. PLAN SUBMITTALS

States are requested to submit both a draft and final version of its Plan to MMS. Pursuant to the Act (Section 1356a(c)(1)(A)), a final Plan must be submitted no later than July 1, 2008. The MMS began accepting Plans October 2, 2006.

States that are unable to submit their final Plan by July 1, 2008, should send a letter to MMS describing their Plan development process and a target date for Plan submittal. Based on the information supplied in this letter, MMS will consider granting a waiver to the July 1, 2008, submittal date if it determines that the State is making a good faith effort to develop and submit, or amend, its Plan.

All Plans (draft and final) and correspondence should be sent to both the National CIAP Coordinator and the State's Regional CIAP Representative:

All States:

MMS National CIAP Coordinator
Minerals Management Service
381 Elden Street
Mail Stop 4040
Herndon, Virginia 20170

Alaska:

MMS Regional CIAP Representative
Minerals Management Service
Alaska OCS Region
3801 Centerpoint Drive
Suite 500
Anchorage, Alaska 99503

Alabama, Louisiana, Mississippi, and Texas:

MMS Regional CIAP Representative
Minerals Management Service
Gulf of Mexico OCS Region
1201 Elmwood Park Boulevard
MS 5400
New Orleans, Louisiana 70123

California:

MMS Regional CIAP Representative
Minerals Management Service
Pacific OCS Region
770 Paseo Camarillo
Camarillo, California 93010

Draft Plans should be submitted to MMS when they are made available for public review (Chapter 5.2.3); one hard copy (unbound) and one digital copy on compact disk (in Microsoft Word) should be sent to both the National CIAP Coordinator and the State's Regional CIAP Representative.

Final Plans must be submitted to both the National CIAP Coordinator and the State's Regional CIAP Representative. States are directed to send one hard copy (unbound) and one digital copy on compact disk (in Microsoft Word) to each of these contacts.

For further information on Plan submittals, contact the National CIAP Coordinator at (703) 787-1710 or CIAPcoordinator@mms.gov.

5.2. PLAN REQUIRED COMPONENTS

The Act (Section 1356a(c)(2)(B)) lists five components that must be included in a Plan (Chapters 5.2.1-5.2.5). The MMS recommends States follow the format and instructions provided in Appendices C, D, and E. Appendix C presents a recommended table of contents, while Appendix D includes a recommended format for project lists (Chapter 5.2.6) and Appendix E includes a recommended format for proposed project descriptions (Chapter 5.2.7). The submittal of standardized Plans will expedite the review process.

5.2.1. Designated State Agency

A Plan must contain the name of the State agency that will have the authority to represent and act for the State in dealing with MMS for CIAP purposes (Section 1356a(c)(2)(B)(ii)(I)). A point of contact for the designated agency and their contact information (title, address, telephone number, fax number, and e-mail address) must also be provided.

5.2.2. Designated Contact for Coastal Political Subdivisions

For each CPS, a Plan must contain the name of a point of contact and their contact information (title, address, telephone number, fax number, and e-mail address) (Section 1356a(c)(2)(B)(ii)(III)(aa)). Each Plan must also include a description of how each CPS intends to use its CIAP funds (Chapter 5.2.5) (Section 1356a(c)(2)(B)(ii)(III)(bb)).

5.2.3. Governor's Certification of Public Participation

A Plan must include a certification by the Governor that sufficient opportunity has been provided for public participation in the development and revision of a Plan (Section 1356a(c)(2)(B)(ii)(IV)). The certification is to be included in the Plan and can be provided in the form of a letter or other document signed by the Governor.

Public participation can be achieved through a variety of means, e.g., use of advisory committees, commission meetings, informal public workshops, and formal public hearings. At a minimum, States should provide adequate public notice of Plan availability and provide a 30-day public comment period on the Plan. It is recommended that States involve relevant Federal, State, and local agencies in their review and comment process.

5.2.4. Coordination with Other Federal Resources and Programs

A Plan must describe the measures taken to determine the availability of assistance from other relevant Federal resources and programs for proposed Plan projects (Section 1356a(c)(2)(B)(ii)(V)). Examples of other Federal resources and programs include, but are not limited to, the following: Coastal Zone Management Programs (CZMP); National Estuarine Research Reserves; U.S. Army Corps of Engineer programs for shoreline protection and conservation of coastal resources; National Marine Sanctuaries; federally funded conservation, development, or transportation projects; and federally mandated activities such as wetlands or endangered species protection.

5.2.5. Plan Implementation Program

The Act (Section 1356a(c)(2)(B)(ii)(II)) requires that each State Plan contain a program for the implementation of the Plan, describing how CIAP funds will be used. The State and its CPS's should ensure that the goals and objectives identified in the State Plan do not create conflict between statewide and local program implementation. The implementation program description should include:

- a description of the State/CPS goals and objectives under the Program;
- a description of how the State/CPS will manage, implement, and monitor the Program;
- a description of the State/CPS public participation process including the dates and periodicals in which notices are placed; the locations, dates, and times of meetings and the number of attendees; and a summary of public comments on the draft Plan;
- a discussion of the State/CPS decisionmaking process for selecting projects;
- a discussion of how the State/CPS plans to ensure compliance with all relevant Federal, State, and local laws including each State's CZMP;
- a description of the major activities and/or categories to be funded under the Program (e.g., infrastructure, habitat restoration, mitigation, etc.) (Chapter 5.2.7); and
- an estimate of the amount of funds, by State and CPS, that will be spent annually on each authorized use (Chapter 5.2.6).

5.2.6. Proposed Project Lists

Each State must include in its Plan a list of projects the State and its CPS's anticipate submitting for CIAP grant funding (Section 1356a(c)(2)(B)(ii)(II)). At a minimum, each State's Plan must identify all proposed projects to be funded with FY 2007 CIAP allocations (Chapter 3). Plans may, however, include proposed project lists for the other CIAP fiscal year allocations (FY 2008, 2009, and 2010). States that do not provide all four years of proposed project lists should be aware that each subsequent submittal of newly proposed projects will be a Plan amendment (Chapter 5.3.2) which requires public participation (Chapter 5.2.3).

Appendix D, Table 1 provides a recommended format for proposed project lists. Proposed projects should be organized by authorized use and include

- the title of each project;
- the estimated cost of each project;
- the estimated cost of each project broken down by spending estimate per calendar year of project duration;
- the subtotal of all estimated costs by authorized use; and
- the total estimated cost for all authorized uses (which should equal the fiscal year allocation).

The MMS recommends proposed projects be prioritized into two tiers. Tier 1 projects would be submitted by States and CPS's for grant funding and would be anticipated to utilize 100 percent of their CIAP fiscal year allocation. Tier 2 projects are for backup purposes. If a Tier 1 project is cancelled, scaled back, or deferred, States and/or CPS's may then submit a Tier 2 project for grant funding without having to amend the Plan (Chapter 5.3.2). At a minimum, each State and CPS should submit a Table 1 for their FY 2007 Tier 1 proposed projects and another Table 1 for their Tier 2 proposed projects. If a Plan contains more than FY 2007 proposed projects, each State and CPS should submit a Tier 1-Table 1 for each of the fiscal year allocations included in the Plan and one Tier 2-Table 1 with all of the Tier 2 proposed projects.

States and CPS's must also demonstrate compliance with the 23 percent spending limitation (Chapter 4.2.2). Appendix D, Table 2 provides a recommended format. At a minimum, each State and CPS should submit Table 2 demonstrating the 23 percent limitation for their FY 2007 CIAP allocation; Table 2 should only be submitted for Tier 1 proposed projects. If a Plan contains more than FY 2007 proposed projects, each State and CPS should demonstrate on Table 2 the 23 percent limitation for each of the fiscal year allocations included in the Plan.

On the anniversary of their Plan's approval, States will be required to submit to MMS an updated list of proposed State and CPS projects (Table 1), with an attachment describing the changes from the previous year's list, and demonstrate continued compliance with the 23 percent spending limitation (Table 2). This updated list can differ from the original submittal but will constitute a Plan amendment (Chapter 5.3.2) if projects on the updated list were not included in the originally submitted and approved Plan. As noted above, the reorganization of projects from Tier 1 to Tier 2 (and vice versa) will not constitute a Plan amendment.

5.2.7. Proposed Project Descriptions

For each proposed Tier 1 and Tier 2 project, the Plan should include:

- a summary (1-2 pages) of the project including measurable goals and objectives;
- an explanation (1-2 pages) of how the project is consistent with one or more of CIAP's authorized uses (Chapter 4.1); if funding public service needs or onshore infrastructure projects under Authorized Use #5, include how the project will mitigate the impact of OCS activities; and
- a description of intent to use CIAP funds for cost sharing or matching purposes with acknowledgement that the State and/or CPS will be required to submit, with their grant application, a letter from the other Federal agency (the agency charged with administering the program that includes the cost sharing or matching requirement) containing a determination that the other agency's program allows the use of Federal funds to meet cost sharing or matching requirements (Chapter 4.2.1).

Appendix E provides a recommended format for the individual State and CPS project descriptions to be included in the Plan.

Appendix F, Grant Application Project Narrative Components (Components) provides the format for the project narrative that applicants (States and CPS's) are required to submit with their grant application. The Components is composed of two parts. The first part, the Project Information, provides the required descriptive elements an applicant must submit for their proposed project. The second part of the Components, the Environmental Checklist (Checklist), has been provided as an aid to the applicant and may be submitted, although not required, with the grant application. The MMS developed the Checklist to help applicants identify the environmental laws that may apply to their projects and the environmental documents they may need to submit. The MMS will use submitted documents to record the applicant's assertion that they have complied with applicable environmental laws.

5.3. MINOR CHANGES AND AMENDMENTS TO A PLAN

Section 1356a(c)(3) of the Act states that any amendment to the Plan shall be prepared according to the requirements and procedures of the Act; this includes the public participation requirement (Chapter 5.2.3). Within 90 calendar days from receipt of a Plan amendment, MMS will notify the State in writing that the amendment is either approved, disapproved, or remains under review (in which case the Plan amendment is neither approved nor disapproved). In the event that MMS fails to provide such written notice to the State, the Plan amendment is deemed disapproved. If MMS notifies the State that the Plan amendment remains under review, MMS will also provide the State with an estimate of the amount of additional time necessary to complete its review.

The MMS recognizes that not all revisions to a Plan will constitute an amendment but may involve minor changes. For CIAP purposes, MMS has developed definitions and processes for minor changes and amendments to a Plan.

5.3.1. Minor Changes to a Plan

A *minor change* means a revision to an approved Plan that does not affect the overall scope or objective of the Plan. Minor changes may be undertaken by notifying MMS in writing of the proposed change; where applicable, notification must acknowledge maintaining the 23 percent limitation (Chapter 4.2.2). The MMS will acknowledge in writing the notification for a minor change within 30 days of receipt.

Minor changes include, but are not limited to,

1. changing the contact person for the State or CPS (Chapters 5.2.1 and 5.2.2) and
2. substituting a Tier 2 project for a Tier 1 project (Chapter 5.2.6).

5.3.2. Amendments to a Plan

An *amendment* means a revision to an approved Plan that alters the overall scope or objectives of the Plan. States must submit to MMS all amendments to a Plan (Section 1356a(c)(3)(B)); amendments may be submitted once per calendar quarter.

Amendments include, but are not limited to,

1. changing the Implementation Program (Chapter 5.2.5) and
2. adding a new project to the Proposed Project Lists (Chapter 5.2.6).

Submission of an amendment should include the proposed change to the original Plan and all revisions to affected Plan components. For example, if a State submits a new proposed project list (Tables 1 and 2), the associated proposed project descriptions are also required along with the Governor's certification of public participation.

6. COASTAL IMPACT ASSISTANCE PLAN REVIEW AND APPROVAL

The MMS will determine within 20 calendar days after receipt of a Plan or Plan amendment whether additional information is needed. If no deficiencies are identified and the required number of copies has been received, the Plan or amendment will be deemed complete. Once a Plan or amendment is determined complete, MMS will have 90 calendar days to notify the State in writing that the Plan or amendment is approved, disapproved, or remains under review (in which case the Plan or amendment is neither approved nor disapproved). If MMS fails to provide such written notice to the State, the Plan or amendment is deemed to be disapproved. If MMS notifies the State that the Plan or amendment remains under review, MMS will also provide the State with an estimate of the amount of additional time necessary to complete its review. If a Plan or amendment is disapproved, the State may revise and resubmit it. The MMS will then have 20 calendar days to determine completeness; once MMS determines that the revised Plan or amendment is complete, MMS will then have 90 calendar days to approve or disapprove the revised Plan or amendment.

The MMS's approval of a Plan should not be construed as final funding approval of the individual State and CPS projects incorporated in that Plan. As part of the Plan approval process, MMS will review those projects identified in a Plan for overall consistency with the requirements set forth in Section 1356a(d)(1) of the Act, *Authorized Uses* (Chapter 4.1). However, individual CIAP projects will be given final funding approval by MMS independently of Plans through the grant application and approval process (Chapter 4).

7. PERFORMANCE AND FINANCIAL REPORTS

Performance and financial reports shall be required annually. In accordance with 43 C.F.R. §§ 12.80-12.81, more frequent reporting may be required. The MMS will provide further information on these reports through the CIAP grant program announcement.

APPENDIX A.

**SECTION 31 OF THE OUTER CONTINENTAL SHELF
LANDS ACT (43 U.S.C. § 1356a) (AS AMENDED BY
SECTION 384 OF THE ENERGY POLICY ACT OF 2005,
PUB. L. 109-58 (AUGUST 8, 2005)):
COASTAL IMPACT ASSISTANCE PROGRAM**

SEC. 1356a. COASTAL IMPACT ASSISTANCE PROGRAM.**(a) Definitions— In this section:**

- (1) **COASTAL POLITICAL SUBDIVISION-** The term `coastal political subdivision' means a political subdivision of a coastal State any part of which political subdivision is—
- (A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State as of the date of enactment of the Energy Policy Act of 2005; and
 - (B) not more than 200 nautical miles from the geographic center of any leased tract.
- (2) **COASTAL POPULATION-** The term `coastal population' means the population, as determined by the most recent official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).
- (3) **COASTAL STATE-** The term `coastal State' has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).
- (4) **COASTLINE-** The term `coastline' has the meaning given the term `coast line' in section 2 of the Submerged Lands Act (43 U.S.C. 1301).
- (5) **DISTANCE-** The term `distance' means the minimum great circle distance, measured in statute miles.
- (6) **LEASED TRACT-** The term `leased tract' means a tract that is subject to a lease under section 6 or 8 for the purpose of drilling for, developing, and producing oil or natural gas resources.
- (7) **LEASING MORATORIA-** The term `leasing moratoria' means the prohibitions on preleasing, leasing, and related activities on any geographic area of the outer Continental Shelf as contained in sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 3063).
- (8) **POLITICAL SUBDIVISION-** The term `political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.
- (9) **PRODUCING STATE-**
- (A) **IN GENERAL-** The term `producing State' means a coastal State that has a coastal seaward boundary within 200 nautical miles of the geographic center of a leased tract within any area of the outer Continental Shelf.
 - (B) **EXCLUSION-** The term `producing State' does not include a producing State, a majority of the coastline of which is subject to leasing moratoria, unless production was occurring on January 1, 2005, from a lease within 10 nautical miles of the coastline of that State.
- (10) **QUALIFIED OUTER CONTINENTAL SHELF REVENUES-**
- (A) **IN GENERAL-** The term `qualified Outer Continental Shelf revenues' means all amounts received by the United States from each leased tract or portion of a leased tract—

(i) lying—

(I) seaward of the zone covered by section 8(g); or

(II) within that zone, but to which section 8(g) does not apply;
and

(ii) the geographic center of which lies within a distance of 200 nautical miles from any part of the coastline of any coastal State.

(B) INCLUSIONS- The term 'qualified Outer Continental Shelf revenues' includes bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this Act.

(C) EXCLUSION- The term 'qualified Outer Continental Shelf revenues' does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on January 1, 2005.

(b) Payments to Producing States and Coastal Political Subdivisions-

(1) IN GENERAL- The Secretary shall, without further appropriation, disburse to producing States and coastal political subdivisions in accordance with this section \$250,000,000 for each of fiscal years 2007 through 2010.

(2) DISBURSEMENT- In each fiscal year, the Secretary shall disburse to each producing State for which the Secretary has approved a plan under subsection (c), and to coastal political subdivisions under paragraph (4), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section for the fiscal year.

(3) ALLOCATION AMONG PRODUCING STATES-

(A) IN GENERAL- Except as provided in subparagraph (C) and subject to subparagraph (D), the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

(B) AMOUNT OF OUTER CONTINENTAL SHELF REVENUES- For purposes of subparagraph (A)--

(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2007 and 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2006; and

(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 and 2010 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2008.

(C) MULTIPLE PRODUCING STATES- In a case in which more than 1 producing State is located within 200 nautical miles of any portion of a leased

tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between--

- (i) the nearest point on the coastline of the producing State; and
- (ii) the geographic center of the leased tract.

(D) MINIMUM ALLOCATION- The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the amounts available under paragraph (1).

(4) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS-

(A) IN GENERAL- The Secretary shall pay 35 percent of the allocable share of each producing State, as determined under paragraph (3) to the coastal political subdivisions in the producing State.

(B) FORMULA- Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)--

(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that--

(I) the coastal population of the coastal political subdivision; bears to

(II) the coastal population of all coastal political subdivisions in the producing State;

(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that--

(I) the number of miles of coastline of the coastal political subdivision; bears to

(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

(C) EXCEPTION FOR THE STATE OF LOUISIANA- For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be considered to be 1/3 the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

(D) EXCEPTION FOR THE STATE OF ALASKA- For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally among the 2 coastal political subdivisions that are closest to the geographic center of a leased tract.

(E) EXCLUSION OF CERTAIN LEASED TRACTS- For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a

leasing moratorium on January 1, 2005, unless the lease was in production on that date.

(5) NO APPROVED PLAN-

(A) IN GENERAL- Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (4) or (5) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c), the Secretary shall allocate the undisbursed amount equally among all other producing States.

(B) RETENTION OF ALLOCATION- The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) is decided.

(C) WAIVER- The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c).

(c) Coastal Impact Assistance Plan-

(1) SUBMISSION OF STATE PLANS-

(A) IN GENERAL- Not later than July 1, 2008, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

(B) PUBLIC PARTICIPATION- In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

(2) APPROVAL-

(A) IN GENERAL- The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a coastal political subdivision located in the producing State, under this section.

(B) COMPONENTS- The Secretary shall approve a plan submitted under paragraph (1) if--

(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

(ii) the plan contains--

(I) the name of the State agency that will have the authority to represent and act on behalf of the producing State in dealing with the Secretary for purposes of this section;

(II) a program for the implementation of the plan that describes how the amounts provided under this section to the producing State will be used;

(III) for each coastal political subdivision that receives an amount under this section--

(aa) the name of a contact person; and

(bb) a description of how the coastal political subdivision will use amounts provided under this section;

(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

(V) a description of measures that will be taken to determine the availability of assistance from other relevant Federal resources and programs.

(3) **AMENDMENT**- Any amendment to a plan submitted under paragraph (1) shall be--

(A) developed in accordance with this subsection; and

(B) submitted to the Secretary for approval or disapproval under paragraph (4).

(4) **PROCEDURE**- Not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), the Secretary shall approve or disapprove the plan or amendment.

(d) Authorized Uses-

(1) **IN GENERAL**- A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State law, only for 1 or more of the following purposes:

(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

(B) Mitigation of damage to fish, wildlife, or natural resources.

(C) Planning assistance and the administrative costs of complying with this section.

(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

(2) **COMPLIANCE WITH AUTHORIZED USES**- If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.

(3) **LIMITATION**- Not more than 23 percent of amounts received by a producing State or coastal political subdivision for any 1 fiscal year shall be used for the purposes described subparagraphs (C) and (E) of paragraph (1).

APPENDIX B.
ELIGIBLE COASTAL POLITICAL SUBDIVISIONS

**Coastal Impact Assistance Program
Eligible Coastal Political Subdivisions***

Alabama Counties	Alaska Boroughs	California Counties	Louisiana Parishes	Mississippi Counties	Texas Counties
Baldwin	Anchorage	Alameda	Assumption	Hancock	Aransas
Mobile	Bristol Bay	Contra Costa	Calcasieu	Harrison	Brazoria
	Kenai Peninsula	Los Angeles	Cameron	Jackson	Calhoun
	Kodiak Island	Marin	Iberia		Cameron
	Lake & Peninsula	Monterey	Jefferson		Chambers
	Matanuska- Susitna	Napa	Lafourche		Galveston
	North Slope	Orange	Livingston		Harris
	Northwest Arctic	San Diego	Orleans		Jackson
		San Francisco	Plaquemines		Jefferson
		San Luis Obispo	St. Bernard		Kenedy
		San Mateo	St. Charles		Kleberg
		Santa Barbara	St. James		Matagorda
		Santa Clara	St. John the Baptist		Nueces
		Santa Cruz	St. Martin		Orange
		Solano	St. Mary		Refugio
		Sonoma	St. Tammany		San Patricio
		Ventura	Tangipahoa		Victoria
			Terrebonne		Willacy
			Vermilion		

*Note: These CPS's are eligible for FY 2007 and 2008 CIAP allocations. Future lease sales and/or lease tract relinquishments, terminations, and expirations after FY 2006 may affect this list for the FY 2009 and 2010 CIAP allocations.

APPENDIX C.

**COASTAL IMPACT ASSISTANCE PLAN
RECOMMENDED
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COASTAL IMPACT ASSISTANCE PLAN**

APPENDIX D.

COASTAL IMPACT ASSISTANCE PLAN RECOMMENDED FORMAT FOR PROPOSED PROJECT LISTS

STATE OF [Insert Name of STATE]
TIER [Insert 1 or 2] PROJECTS
PROPOSED by [Insert Name of STATE or COASTAL POLITICAL SUBDIVISION] for
FISCAL YEAR [Insert 2007, 2008, 2009, or 2010]
COASTAL IMPACT ASSISTANCE PROGRAM ALLOCATIONS

TABLE 1

Project Title <small>(insert as many rows as needed for number of proposed projects)</small>	Estimated Cost (\$)	Spending Estimate (\$) by Calendar Year <small>(insert as many columns as needed for project duration)</small>						
		2007	2008	2009	2010	2011	2012	2013
Authorized Use 1: Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.								
1								
2								
Subtotal (\$):								
Authorized Use 2: Mitigation of damage to fish, wildlife, or natural resources.								
1								
2								
Subtotal (\$):								
Authorized Use 3: Planning assistance and the administrative costs of complying with CIAP.								
1								
2								
Subtotal (\$):								
Authorized Use 4: Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.								
1								
2								
Subtotal (\$):								
Authorized Use 5: Mitigation of the impact of OCS activities through funding of onshore infrastructure projects and public service needs.								
1								
2								
Subtotal (\$):								
Total of all Authorized Uses (\$):								

STATE OF *[Insert: Name of STATE]*

TIER 1 PROJECTS

PROPOSED by *[Insert Name of STATE or COASTAL POLITICAL SUBDIVISION]* for
 FISCAL YEARS 2007 *[if necessary, Insert: and 2008 or 2008, and 2009 or 2008, 2009, and 2010]*
 COASTAL IMPACT ASSISTANCE PROGRAM ALLOCATIONS

TABLE 2

Authorized Use	Estimated Cost Subtotals (\$) (from Table 1) by Fiscal Year Allocation			
	FY 2007	FY 2008	FY 2009	FY 2010
Authorized Use 1				
Authorized Use 2				
Authorized Use 3				
Authorized Use 4				
Authorized Use 5				
Total of all Authorized Uses (\$):				
23 % Limitation:				
Authorized Use 3				
Authorized Use 5				
Total of Authorized Use 3 and 5(\$):				
Authorized Use	Estimated Cost Subtotals (from Table 1) as a Percentage of Fiscal Year Allocation			
	FY 2007	FY 2008	FY 2009	FY 2010
Authorized Use 1				
Authorized Use 2				
Authorized Use 3				
Authorized Use 4				
Authorized Use 5				
Total of all Authorized Uses (%):	100%	100%	100%	100%
23 % Limitation:				
Authorized Use 3				
Authorized Use 5				
Total of Authorized Use 3 and 5 (%):				

APPENDIX E.

COASTAL IMPACT ASSISTANCE PLAN RECOMMENDED FORMAT FOR PROPOSED PROJECT DESCRIPTIONS

STATE OF *[Insert Name of STATE]*
COASTAL IMPACT ASSISTANCE PLAN

DESIGNATED STATE AGENCY OR COASTAL POLITICAL SUBDIVISION**PROJECT TITLE****PROJECT CONTACT**

Contact Name
Address
Telephone Number
Fax Number
E-mail Address

PROJECT SUMMARY

Location
Duration
Estimated Cost
Spending Estimate per Calendar Year of Project Duration

- Provide a summary (1-2 pages) of the project; and
- Measurable goals and objectives of the project.

AUTHORIZED USES

- Identify the authorized use by number (1-5) and its title.
- Provide an explanation (1-2 pages) of how the project is consistent with one or more of CIAP's authorized uses; if funding public service needs or onshore infrastructure projects under Authorized Use #5, include how the project will mitigate the impact of OCS activities.
- Provide a description of intent to use CIAP funds for cost sharing or matching purposes with acknowledgement that the State and/or CPS will be required to submit, with their grant application, a letter from the other Federal agency (the agency charged with administering the program that includes the cost sharing or matching requirement) containing a determination that the other agency's program allows the use of Federal funds to meet cost sharing or matching requirements.

APPENDIX F.

**GRANT APPLICATION
PROJECT NARRATIVE COMPONENTS**

PROJECT NARRATIVE COMPONENTS

PROJECT INFORMATION

For Numbers 1-5, applicants should submit the project information that is in the approved State Plan.

For Number 6, applicants should submit the requested detailed information on the project and clearly identify which task(s) of the project is being submitted for funding under this grant application. Also indicate how many amendments to this grant or subsequent grants will be associated with this project; group the project's tasks by proposed amendment and/or subsequent grant. If the bundling of projects is proposed, the rationale for the bundling must be provided.

Numbers 7-9 should be filled out at the project level, if possible, and must be filled out at the grant level.

Number 10 is to be filled out at the grant level.

1. Designated State Agency or Coastal Political Subdivision

2. Project Title

3. Project Contact

Contact Name
Address
Telephone Number
Fax Number
E-mail Address

4. Project Summary

Location
Duration
Estimated Cost
Spending Estimate per Calendar Year of Project Duration

- Provide a summary (1-2 pages) of the project; and
- Measurable goals and objectives of the project.

5. Authorized Uses

- Identify the authorized use by number (1-5) and its title.
- Provide an explanation (1-2 pages) of how the project is consistent with the identified CIAP authorized use; if funding public service needs or onshore infrastructure projects under Authorized Use #5, include how the project will mitigate the impact of OCS activities.
- If the intent is to use CIAP funds for cost sharing or matching purposes, the State and/or CPS will be required to submit with their grant application a letter from the

other Federal agency (the agency charged with administering the program that includes the cost sharing or matching requirement) containing a determination that the other agency's program allows the use of Federal funds to meet cost sharing or matching requirements.

6. Project Description

- Describe the project in sufficient detail (up to 10 pages) to allow a reviewer to understand: how the project's goals and objectives will be obtained; the tasks that will be undertaken; the timeline for completing those tasks; and the intended results, products, or services that will be provided upon project completion.
- Describe the project's goals and objectives, in measurable terms, and include a monitoring plan to evaluate the project's success. These goals and objectives will be incorporated into the grant award and should be used by the recipient when creating the Progress Report.
- Describe the duration of the project and any factors that could expedite or disrupt the project schedule.
- Describe the compatibility/synergy of the project to current and other proposed projects in the project area.
- Describe any controversial aspects associated with the project and the level of local support or objection to the project.

7. Description of Environmental Impacts

- Describe any environmental resources (e.g., marine habitat, air quality, water quality, etc.) that may be impacted by the project and reference any environmental documents that analyze these environmental impacts.
- Describe the mitigation measures that will be implemented to eliminate or minimize any harmful impacts the projects may have on environmental resources.

8. Relationship to Other Federal Programs

- Describe other Federal programs that are currently providing funding support or contributing resources to the project, and describe measures that are or will be taken to secure additional assistance from other relevant Federal resources and programs.

9. Federal, State, and Local Agencies

- Provide a list of all Federal, State, and local agencies involved with the project.
- Provide for each of the above agencies: point of contact name, address, telephone number, fax number, and e-mail address.

10. Table Showing Estimated Project Cost Breakdown

- Provide an itemized list of projected expenses including personnel costs, travel costs, contracting costs, equipment purchases, supply and material costs, legal expenses, etc.

11. Project Information Questions

The following questions apply to the project task(s) being submitted for funding under this grant application. If the answer to a question is “yes,” mail the resulting documentation (on compact disk) to the appropriate Regional CIAP Representative (Chapter 5.1, Plan Submittals) at the time of the electronic grant application submittal.

Environmental Review

- 1) Does the project require any Federal environmental review (e.g., environmental assessment, environmental impact statement, biological opinion)?
 Yes **No**
- 2) Does the project require any State environmental review (e.g., Consistency Determination, State Historic Preservation Office)?
 Yes **No**
- 3) Does the project require any local environmental review (e.g., zoning)?
 Yes **No**

If the answer to any of these questions is “yes,” provide (on compact disk) a copy of the environmental review(s) with the grant application.

Permits

- 1) Does the project require any Federal permits?
 Yes **No**
- 2) Does the project require any State permits?
 Yes **No**
- 3) Does the project require any local permits?
 Yes **No**

If the answer to any of these questions is “yes,” provide (on compact disk) a copy of the permit(s) with the grant application.

Legal Proceedings

- 1) Are there any pending legal proceedings that have been taken against any of the permits or related environmental analyses required for the project?
 Yes **No**

If the answer is “yes,” provide (on compact disk) an explanation of the pending legal proceeding and the status of it with the grant application.

ENVIRONMENTAL CHECKLIST

The following questions have been provided as an aid to the applicant to help identify environmental laws that may apply to your project and environmental documents that may be submitted with the grant application (e.g., biological opinion, permit, letter, consistency determination). The MMS will use the submittals to record the applicant's assertion that they have complied with applicable environmental laws. Applicants will also be required to submit with their grant application the Office of Management and Budget standard form 424B, Assurance for Non-Construction Projects, and/or 424D, Assurance for Construction Projects, as appropriate. These forms attest that the grant project is in compliance with all applicable laws.

FEDERAL LAWS**National Environmental Policy Act**

The NEPA of 1969 (42 U.S.C. 4321 *et seq.*) provides a national policy that encourages "productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man . . ." The NEPA requires that all Federal agencies use a systematic, interdisciplinary approach for protection of the human environment; this approach will ensure the integrated use of the natural and social sciences in any planning and decision-making that may have an impact upon the environment. The NEPA also requires the preparation of a detailed Environmental Impact Statement (EIS) on any major Federal action that may have a significant impact on the environment.

- 1) Will the proposed project be under the permitting authority of any federal agency?
 Yes No
- 2) Will the proposed project receive Federal assistance (other than CIAP funding)?
 Yes No
- 3) Will the proposed project be subject to any Federal regulatory decision or approval?
 Yes No

If the answer to any of these questions is "yes," contact that agency for further guidance on environmental compliance.

Additional information concerning NEPA can be found at:

<http://ceq.eh.doe.gov/nepa/nepanet.htm>.

Coastal Zone Management Act (CZMA)

Coastal Impact Assistance Plans and grant applications may be subject to the review provisions of Section 307 of the Coastal Zone Management Act (CZMA) and implementing regulations at 15 C.F.R. Part 930. Questions as to the applicability of the CZMA consistency provisions should be directed to the Office of Ocean and Coastal Resource Management within the National Oceanic and Atmospheric Administration.

A federal consistency determination or certification may be required from the state coastal zone management program.

- 1) Will the proposed project occur in or near the state designated coastal zone (<http://www.ocrm.nos.noaa.gov/pdf/StateCZBoundaries.pdf>)?
 Yes No
- 2) Is the project likely to have reasonably foreseeable effects on any land or water use or natural resource of the designated coastal zone?
 Yes No

If the answer to either of these questions is “yes,” contact the State Coastal Zone Management Program (http://www.ocrm.nos.noaa.gov/pdf/statepmfclist03_27_06.pdf) for further guidance on federal consistency requirements in your state.

Additional information on federal consistency can be found at:

http://www.ocrm.nos.noaa.gov/czm/fedcon_workbook.html.

Endangered Species Act (ESA)

Section 7 consultations may be required if threatened or endangered species or critical habitat are present.

- 1) Will the proposed project occur in proximity to threatened or endangered species or critical habitat as defined by the ESA and under the jurisdiction of the National Marine Fisheries Service (NMFS) (<http://www.nmfs.noaa.gov/Endangered.htm>) or the U.S. Fish and Wildlife Service (USFWS) (<http://endangered.fws.gov/>)?
 Yes No
- 2) Will the proposed project potentially affect threatened or endangered species or critical habitat as defined by the ESA and under the jurisdiction of NMFS or USFWS?
 Yes No

If the answer to either of these questions is “yes,” contact the regional office of USFWS (<http://www.fws.gov/offices/>) and/or NMFS (<http://www.nmfs.noaa.gov/regional.htm>) to determine if consultation is required. Most consultations are conducted informally with the Federal agency or a designated non-Federal representative. Non-Federal representatives may be involved in the informal consultation process and may request and receive species lists, prepare the biological assessment, and provide information for the formal consultation. However, the USFWS requires the action agency to designate formally the non-Federal representative in writing. Moreover, the ultimate responsibility for Section 7 obligations remains with the action agency.

Additional information concerning Section 7 consultations can be found in the *Endangered Species Act Consultation Handbook* at:

<http://www.fws.gov/endangered/consultations/s7hndbk/toc-glos.pdf>.

Magnuson – Stevens Fishery Conservation and Management Act (FCMA)

Consultation with the NMFS may be required if Essential Fish Habitat (EFH) is present. The trigger for EFH consultation is a Federal agency’s determination that an action or proposed action, funded, authorized, or undertaken by that agency may adversely affect EFH.

- 1) Will the proposed project occur in proximity to EFH as identified by the nearest Regional Fishery Management Council (<http://www.nmfs.noaa.gov/councils>)?
 Yes No
- 2) Will the proposed project potentially adversely affect EFH?
 Yes No

If the answer to either of these questions is “yes,” contact the nearest regional office of the NMFS (<http://www.nmfs.noaa.gov/regional.htm>) or Regional Fishery Management Council (<http://www.nmfs.noaa.gov/councils>) to determine if consultation is required.

Additional information concerning EFH can be found at:

http://www.nmfs.noaa.gov/habitat/habitatprotection/efh/stat_reg_b.htm.

Information about consultations can be found in the *Essential Fish Habitat Consultation Guidance* at:

<http://www.nmfs.noaa.gov/habitat/habitatprotection/pdf/efh/EFH%20Consultation%20Guidance%20v1-1.pdf>.

Marine Mammal Protection Act (MMPA)

A permit may be required if an activity will result in the “take” of a marine mammal. Taking is defined as “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.” Permits for most marine mammals are issued by NMFS. Manatees, polar bears, sea otters, walruses, and dugongs, however, are under the jurisdiction of the USFWS.

- 1) Will the proposed project occur in proximity to any known marine mammals (<http://www.nmfs.noaa.gov/pr/species/mammals>)?
 Yes No
- 2) Will the proposed project likely result in the take of a marine mammal?
 Yes No

If the answer to either of these questions is “yes,” contact the nearest regional office of NMFS (<http://www.nmfs.noaa.gov/regional.htm>) to determine if a permit is required.

Additional information concerning marine mammal permits can be found at:

http://www.nmfs.noaa.gov/pr/permits/mmpa_permits.htm and
<http://www.nmfs.noaa.gov/pr/permits/guide.htm>.

Clean Water Act (CWA)

A separate type of permit is required to dispose of dredge or fill material in the Nation’s waters, including wetlands. Authorized by **Section 404** of the Act, this permit program is administered by the U.S. Army Corps of Engineers, subject to and using EPA’s environmental guidance. Some types of activities are exempt from permit requirements, including certain farming, ranching, and forestry practices that do not alter the use or character of the land; some construction and maintenance; and activities already regulated by States under other provisions

of the Act. EPA may delegate certain section 404 permitting responsibility to qualified States but has done so only twice, in Michigan and New Jersey.

A permit may be required from the USACE for the disposal of dredge or fill material in the nation's waters, including wetlands.

- 1) Will the proposed project result in any disposal of dredge or fill material to the nation's waters or wetlands?
 Yes **No**

If the answer to this question is "yes," contact the Regulatory Program of the nearest District Office of the USACE (<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/district.htm>) for further guidance on Section 404 permits.

A Water Quality Certification (Section 401) is required for activities that may result in a discharge into navigable waters, including wetlands, watercourses, and natural or man-made ponds. An NPDES permit may also be required for such discharges.

- 2) Will the proposed project result in any discharge to navigable waters?
 Yes **No**

If the answer to this question is "yes," contact your state water quality agency (<http://www.epa.gov/safewater/source/contacts.html>) for additional guidance.

Additional information concerning Section 401 or NPDES requirements can be found at:
<http://www.epa.gov/owow/wetlands/waterquality>.

Clean Air Act (CAA)

Special conditions may be required on projects that could affect air quality.

- 1) Will the proposed project result in any direct or indirect emissions within a non-attainment area (<http://www.epa.gov/oar/oaqps/greenbk/index.html>)?
 Yes **No**

If the answer to this question is "yes," contact the nearest state air quality agency (<http://www.4cleanair.org>) for further guidance on determining conformity with the state implementation plan.

National Historic Preservation Act (NHPA)

Special conditions may be required on projects that could affect historic resources.

- 1) Will the project occur near property listed or eligible for listing in the National Register of Historic Places (<http://www.cr.nps.gov/nr>), or near property otherwise protected by section

106 of the National Historic Preservation Act (<http://www2.cr.nps.gov/laws/NHPA1966.htm>) or a similar State Preservation Act?

_____ **Yes** _____ **No**

If the answer to this question is “yes,” contact the U.S. Advisory Council on Historic Preservation (<http://www.achp.gov>), or your state historic preservation office (<http://www.ncshpo.org/stateinfolist/fulllist.htm>) for further guidance concerning compliance requirements.

Coastal Barrier Resource Act (CBRA)

Federal funding may be prohibited for projects that occur on certain designated coastal barriers.

- 1) Is the project located on an undeveloped coastal barrier designated by the Coastal Barriers Resources Act (http://www.fws.gov/habitatconservation/coastal_barrier.htm)?

_____ **Yes** _____ **No**

If the answer to this question is “yes,” contact the nearest Regional Office of USFWS (<http://www.fws.gov/where>) for further guidance.

Rivers and Harbors Act

A permit may be required from the U.S. Army Corps of Engineers (USACE) if the proposed project involves any work in, over, or under navigable waters of the United States.

- 1) Will the proposed project involve any work (including structures) that will occur in, over or under navigable waters of the United States?

_____ **Yes** _____ **No**

If the answer to this question is “yes,” contact the Regulatory Program of the nearest District Office of the USACE (<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/district.htm>) for further guidance on Section 10 permits. The USACE can authorize activities by a standard individual permit, letter-of-permission, nationwide permit, or regional permit. The USACE will make the determination on what type of permit is needed.

Resource Conservation and Recovery Act (RCRA)

A RCRA permit may be required from the Environmental Protection Agency (EPA) or designated state agency for the long-term storage, treatment, or disposal of hazardous materials or petroleum products.

- 1) Will the proposed project include the long-term storage of hazardous materials or petroleum products?

_____ **Yes** _____ **No**

If the answer to this question is “yes,” contact the nearest RCRA Regional Office of the EPA or state authorized agency (<http://www.epa.gov/epaoswer/osw/regions.htm>) for further guidance on RCRA compliance.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Special provisions and requirements may apply if the proposed project involves a Superfund site (<http://www.epa.gov/superfund/sites/index.htm>).

- 1) Will the proposed project involve a known Superfund site?
____ **Yes** ____ **No**

If the answer to this question is “yes,” contact the nearest Regional Office of the EPA (<http://www.epa.gov/epahome/locate2.htm>) for further guidance on CERCLA requirements.

EXECUTIVE ORDERS

Executive Orders are directives from the President of the United States to Federal agencies and officials.

E.O. 11988 – Floodplain Management

This Executive Order requires that an eight-step process be followed for projects that may have potential impacts to or within floodplains.

- 1) Is the project located in a designated floodway or “V-zone” on a National Flood Insurance Program map:
(<http://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>)?
____ **Yes** ____ **No**

If the answer to this question is “yes,” contact the nearest Regional Office of the Federal Emergency Management Agency (<http://www.fema.gov/about/contact/regions.shtm>) for further guidance.

E.O. 11990 – Wetland Protection

This Executive Order requires agencies to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural beneficial values of wetlands.

- 1) Is any portion of the proposed project in wetlands?
____ **Yes** ____ **No**

If the answer to this question is “yes,” provide documentation in your grant application demonstrating that: (1) there is no practicable alternative, and (2) the project includes all practicable measures to minimize harm to wetlands.

E.O. 12898 – Environmental Justice

This Executive Order requires that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

- 1) Will the project have disproportionately high and adverse human health or environmental effects on minority or low-income populations?

Yes No

If the answer to this question is "yes," see the Council on Environmental Quality website for further guidance on Environmental Justice: <http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf>.

Additional information regarding Executive Order 12898 can be found at <http://www.mms.gov/eppd/compliance/12898/guidance.htm>.

E.O. 13089 – Coral Reef Protection

This Executive Order requires that any actions that are authorized or funded by Federal agencies not degrade the condition of coral reef ecosystems. The CIAP States contain coral reef ecosystems and include National Marine Sanctuaries (<http://sanctuaries.noaa.gov>).

- 1) Will the proposed project involve a coral reef ecosystem or National Marine Sanctuary?

Yes No

If the answer to this question is "yes," contact the National Oceanic and Atmospheric Administration Coral Reef Conservation Program (<http://www.coralreef.noaa.gov>) for further guidance.

Additional information regarding Executive Order 13089 can be found at: <http://www.coralreef.gov/index.html>.

E.O. 13112 – Invasive Species

This Executive Order requires agencies to prevent the introduction of invasive species and provide for their control.

- 1) Will the proposed project have the potential to introduce or cause the spread of an invasive species?

Yes No

If the answer to this question is "yes," provide documentation in the grant application demonstrating that the benefits of the project clearly outweigh the potential harm caused by invasive species, and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

E.O. 13186 – Responsibilities of Federal Agencies to Protect Migratory Birds

This Executive Order requires the incorporation and promotion of migratory bird conservation considerations into all agency activities. All of the CIAP states contain North American migration flyways (<http://www.birdnature.com/flyways.html>).

- 1) Is the proposed project likely to occur during a time of the year when migrating birds are in the vicinity (<http://www.birdnature.com/timetable.html>)?
___ **Yes** ___ **No**

If the answer to this question is “yes,” contact the nearest Regional Office of the U.S. Fish and Wildlife Service (<http://www.fws.gov/where>) for further guidance.

Additional information regarding Executive Order 13186 can be found at:
<http://www.fws.gov/migratorybirds>.