

Coastal Zone Management Act

16 U.S.C. §§1451-1466

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Coastal Zone Management Act

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§1451. [CZMA §302]

Congressional findings

The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

(d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;

(g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.

(l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.

(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

(Pub. L. 89-454, title III, §302, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, and amended Pub. L. 94-370, §2, July 26, 1976, 90 Stat. 1013; Pub. L. 96-464, §2, Oct. 17, 1980, 94 Stat. 2060; Pub. L. 101-508, title VI, §6203(a), Nov. 5, 1990, 104 Stat. 1388-300.)

Short Title Of 2004 Amendment

Pub. L. 108-456, title I, Sec. 101, Dec. 10, 2004, 118 Stat. 3630, provided that: "This title [enacting and amendment provisions set out as notes under this section] may be cited as the 'Harmful Algal Bloom and Hypoxia Amendments Act of 2004'."

Short Title Of 1996 Amendment

Pub. L. 104-150, Sec. 1, June 3, 1996, 110 Stat. 1380, provided that: "This Act [enacting section 1465 of this title, amending sections 1454, 1455a, 1456a, 1456b, 1461, and 1464 of this title, and enacting provisions set out as a note under section 1454 of this title] may be cited as the 'Coastal Zone Protection Act of 1996'."

Short Title Of 1990 Amendment

Section 6201 of title VI of Pub. L. 101-508 provided that: "This subtitle [subtitle C (Sec. 6201-6217) of title VI of Pub. L. 101-508, enacting sections 1455b, 1456c, and 1460 of this title, amending this section and sections 1452 to 1456b, 1458, 1461, and 1464 of this title, and enacting provisions set out as notes under this section and section 1455 of this title] may be cited as the 'Coastal Zone Act Reauthorization Amendments of 1990'."

Short Title Of 1986 Amendment

Pub. L. 99-272, title VI, Sec. 6041, Apr. 7, 1986, 100 Stat. 124, provided that: "This subtitle [subtitle D (Sec. 6041-6047) of title VI of Pub. L. 99-272, amending sections 1455, 1455a, 1456a, 1458, 1461, and 1464 of this title, repealing sections 1456c and 1460 of this title, and repealing provisions set out as a note under this section] may be cited as the 'Coastal Zone Management Reauthorization Act of 1985'."

Short Title Of 1980 Amendment

Section 1 of Pub. L. 96-464 provided: "That this Act [enacting sections 1455a and 1463a of this title, amending this section and sections 1452, 1453, 1455, 1456a, 1456b, 1458, 1461, 1462, and 1464 of this title, and enacting provisions set out as notes under sections 1455, 1458, and 1463a of this title] may be cited as the 'Coastal Zone Management Improvement Act of 1980'."

Short Title Of 1976 Amendment

Section 1 of Pub. L. 94-370 provided: "That this Act [enacting section 1511a of Title 15, Commerce and Trade, and sections 1456a to 1456c of this title, amending this section, sections 1453 to 1456 and 1457 to 1464 of this title, and section 5316 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 1511a of Title 15 and section 1462 of this title] may be cited as the 'Coastal Zone Management Act Amendments of 1976'."

Short Title

Section 301 of title III of Pub. L. 89-454, as added by Pub. L. 92-583, provided that: "This title [enacting this chapter] may be cited as the 'Coastal Zone Management Act of 1972'."

Harmful Algal Blooms And Hypoxia Research And Control

Pub. L. 108-456, title I, Sec. 102, Dec. 10, 2004, 118 Stat. 3630, provided in part that: "In developing the assessments, reports, and plans under the amendments made by this title [see Short Title of 2004 Amendment note above], the Task Force [Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia] shall consult with the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management."

Pub. L. 105-383, title VI, Nov. 13, 1998, 112 Stat. 3447, as amended by Pub. L. 108-456, title I, Secs. 102-105, Dec. 10, 2004, 118 Stat. 3630-3633, provided that:

"SEC. 601. SHORT TITLE.

"This title may be cited as the 'Harmful Algal Bloom and Hypoxia Research and Control Act of 1998'."

"SEC. 602. FINDINGS.

"The Congress finds that—

"(1) the recent outbreak of the harmful microbe *Pfiesteria piscicida* in the coastal waters of the United States is one example of potentially harmful algal blooms composed of naturally occurring species that reproduce explosively and that are increasing in frequency and intensity in the Nation's coastal waters;

"(2) other recent occurrences of harmful algal blooms include red tides in the Gulf of Mexico and the Southeast; brown tides in New York and Texas; ciguatera fish poisoning in Hawaii, Florida, Puerto Rico, and the United States Virgin Islands; and shellfish poisonings in the Gulf of Maine, the Pacific Northwest, and the Gulf of Alaska;

"(3) in certain cases, harmful algal blooms have resulted in fish kills, the deaths of numerous endangered West Indian manatees, beach and shellfish bed closures, threats to public health and safety, and concern among the public about the safety of seafood;

"(4) according to some scientists, the factors causing or contributing to harmful algal blooms may include excessive nutrients in coastal waters, other forms of pollution, the transfer of harmful species through ship ballast water, and ocean currents;

"(5) harmful algal blooms may have been responsible for an estimated \$1,000,000,000 in economic losses during the past decade;

“(6) harmful algal blooms and blooms of non-toxic algal species may lead to other damaging marine conditions such as hypoxia (reduced oxygen concentrations), which are harmful or fatal to fish, shellfish, and benthic organisms;

“(7) according to the National Oceanic and Atmospheric Administration in the Department of Commerce, 53 percent of United States estuaries experience hypoxia for at least part of the year and a 7,000 square mile area in the Gulf of Mexico off Louisiana and Texas suffers from hypoxia;

“(8) according to some scientists, a factor believed to cause hypoxia is excessive nutrient loading into coastal waters;

“(9) there is a need to identify more workable and effective actions to reduce nutrient loadings to coastal waters;

“(10) the National Oceanic and Atmospheric Administration, through its ongoing research, education, grant, and coastal resource management programs, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control harmful algal blooms and hypoxia;

“(11) funding for the research and related programs of the National Oceanic and Atmospheric Administration will aid in improving the Nation’s understanding and capabilities for addressing the human and environmental costs associated with harmful algal blooms and hypoxia; and

“(12) other Federal agencies such as the Environmental Protection Agency, the Department of Agriculture, and the National Science Foundation, along with the States, Indian tribes, and local governments, conduct important work related to the prevention, reduction, and control of harmful algal blooms and hypoxia.

“SEC. 603. ASSESSMENTS.

“(a) **Establishment of Inter-Agency Task Force.**—The President, through the Committee on Environment and Natural Resources of the National Science and Technology Council, shall establish an Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia (hereinafter referred to as the ‘Task Force’). The Task Force shall consist of the following representatives from—

“(1) the Department of Commerce (who shall serve as Chairman of the Task Force);

“(2) the Environmental Protection Agency;

“(3) the Department of Agriculture;

“(4) the Department of the Interior;

“(5) the Department of the Navy;

“(6) the Department of Health and Human Services;

“(7) the National Science Foundation;

“(8) the National Aeronautics and Space Administration;

“(9) the Food and Drug Administration;

“(10) the Office of Science and Technology Policy;

“(11) the Council on Environmental Quality; and

“(12) such other Federal agencies as the President considers appropriate.

“(b) **Assessment of Harmful Algal Blooms.**—

“(1) Not later than 12 months after the date of the enactment of this title [Nov. 13, 1998], the Task Force, in cooperation with the coastal States, Indian tribes, and local governments, industry (including agricultural organizations), academic institutions, and non-governmental organizations with expertise in coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of harmful algal blooms, alternatives for reducing, mitigating, and controlling harmful algal blooms, and the social and economic costs and benefits of such alternatives.

“(2) The assessment shall—

“(A) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to harmful algal blooms; and

“(B) provide for Federal cooperation and coordination with and assistance to the coastal States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of harmful algal blooms and their environmental and public health impacts.

“(c) **Assessment of Hypoxia.**—

“(1) Not later than 12 months after the date of the enactment of this title [Nov. 13, 1998], the Task Force, in cooperation with the States, Indian tribes, local governments, industry, agricultural, academic institutions, and non-governmental organizations with expertise in watershed and coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of hypoxia in United States coastal waters, alternatives for reducing, mitigating, and controlling hypoxia, and the social and economic costs and benefits of such alternatives.

“(2) The assessment shall—

“(A) establish needs, priorities, and guidelines for a peer-reviewed, inter-agency research program on the causes, characteristics, and impacts of hypoxia;

“(B) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to hypoxia; and

“(C) provide for Federal cooperation and coordination with and assistance to the States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of hypoxia and its environmental impacts.

“(d) **Report to Congress on Harmful Algal Bloom Impacts.**—

“(1) **Development.**—Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004], the President, in consultation with the chief executive officers of the States, shall develop and submit to the Congress a report that describes and evaluates the effectiveness of measures described in paragraph (2) that may be utilized to pro-

tect environmental and public health from impacts of harmful algal blooms. In developing the report, the President shall consult with the Task Force, the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management, and also consider the scientific assessments developed under this Act.

“(2) **Requirements.**—The report shall—

“(A) review techniques for prediction of the onset, course, and impacts of harmful algal blooms including evaluation of their accuracy and utility in protecting environmental and public health and provisions for their development;

“(B) identify innovative research and development methods for the prevention, control, and mitigation of harmful algal blooms and provisions for their development; and

“(C) include incentive-based partnership approaches regarding subparagraphs (A) and (B) where practicable.

“(3) **Publication and opportunity for comment.**—At least 90 days before submitting the report to the Congress, the President shall cause a summary of the proposed plan to be published in the Federal Register for a public comment period of not less than 60 days.

“(4) **Federal assistance.**—The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for Federal cooperation with and assistance to the coastal States, Indian tribes, and local governments regarding the measures described in paragraph (2), as requested.

“(e) **Local and Regional Scientific Assessments.**—

“(1) **In general.**—The Secretary of Commerce, in coordination with the Task Force and appropriate State, Indian tribe, and local governments, to the extent of funds available, shall provide for local and regional scientific assessments of hypoxia and harmful algal blooms, as requested by States, Indian tribes, and local governments, or for affected areas as identified by the Secretary. If the Secretary receives multiple requests, the Secretary shall ensure, to the extent practicable, that assessments under this subsection cover geographically and ecologically diverse locations with significant ecological and economic impacts from hypoxia or harmful algal blooms. The Secretary shall establish a procedure for reviewing requests for local and regional assessments. The Secretary shall ensure, through consultation with Sea Grant Programs, that the findings of the assessments are communicated to the appropriate State, Indian tribe, and local governments, and to the general public.

“(2) **Purpose.**—Local and regional assessments shall examine—

“(A) the causes and ecological consequences, and the economic cost, of hypoxia or harmful algal blooms in that area;

“(B) potential methods to prevent, control, and mitigate hypoxia or harmful algal blooms in that area and the potential ecological and economic costs and benefits of such methods; and

“(C) other topics the Task Force considers appropriate.

“(f) **Scientific Assessment of Freshwater Harmful Algal Blooms.**—(1) Not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004] the Task Force shall complete and submit to Congress a scientific assessment of current knowledge about harmful algal blooms in freshwater, such as the Great Lakes and upper reaches of estuaries, including a research plan for coordinating Federal efforts to better understand freshwater harmful algal blooms.

“(2) The freshwater harmful algal bloom scientific assessment shall—

“(A) examine the causes and ecological consequences, and the economic costs, of harmful algal blooms with significant effects on freshwater, including estimations of the frequency and occurrence of significant events;

“(B) establish priorities and guidelines for a competitive, peer-reviewed, merit-based interagency research program, as part of the Ecology and Oceanography of Harmful Algal Blooms (ECO HAB) project, to better understand the causes, characteristics, and impacts of harmful algal blooms in freshwater locations; and

“(C) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms in freshwater locations.

“(g) **Scientific Assessments of Hypoxia.**—(1) Not less than once every 5 years the Task Force shall complete and submit to the Congress a scientific assessment of hypoxia in United States coastal waters including the Great Lakes. The first such assessment shall be completed not less than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004].

“(2) The assessments under this subsection shall—

“(A) examine the causes and ecological consequences, and the economic costs, of hypoxia;

“(B) describe the potential ecological and economic costs and benefits of possible policy and management actions for preventing, controlling, and mitigating hypoxia;

“(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of hypoxia, including recommendations of how to eliminate significant gaps in hypoxia modeling and monitoring data; and

“(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on hypoxia.

“(h) **Scientific Assessments of Harmful Algal Blooms.**—(1) Not less than once every 5 years the Task Force shall complete and submit to Congress a scientific assessment of harmful algal blooms in United States coastal waters. The first such assessment shall be completed not later than 24 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004]

and shall consider only marine harmful algal blooms. All subsequent assessments shall examine both marine and freshwater harmful algal blooms, including those in the Great Lakes and upper reaches of estuaries.

“(2) The assessments under this subsection shall—

“(A) examine the causes and ecological consequences, and economic costs, of harmful algal blooms;

“(B) describe the potential ecological and economic costs and benefits of possible actions for preventing, controlling, and mitigating harmful algal blooms;

“(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of harmful algal blooms; and

“(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms.

“(i) **National Scientific Research, Development, Demonstration, and Technology Transfer Plan on Reducing Impacts From Harmful Algal Blooms.**—(1) Not later than 12 months after the date of enactment of the Harmful Algal Bloom and Hypoxia Amendments Act of 2004 [Dec. 10, 2004], the Task Force shall develop and submit to Congress a plan providing for a comprehensive and coordinated national research program to develop and demonstrate prevention, control, and mitigation methods to reduce the impacts of harmful algal blooms on coastal ecosystems (including the Great Lakes), public health, and the economy.

“(2) The plan shall—

“(A) establish priorities and guidelines for a competitive, peer reviewed, merit based interagency research, development, demonstration, and technology transfer program on methods for the prevention, control, and mitigation of harmful algal blooms;

“(B) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to the actions described in paragraph (1); and

“(C) include to the maximum extent practicable diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Hispanics, Native Americans, Asian Pacific Americans, and other underrepresented populations.

“(3) The Secretary of Commerce, in conjunction with other appropriate Federal agencies, shall establish a research, development, demonstration, and technology transfer program that meets the priorities and guidelines established under paragraph (2)(A). The Secretary shall ensure, through consultation with Sea Grant Programs, that the results and findings of the program are communicated to State, Indian tribe, and local governments, and to the general public.

“**SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.**

“(a) **Assessment Report.**—Not later than May 30, 1999, the Task Force shall complete and submit to Congress and the President an integrated assessment of hypoxia in the northern Gulf of Mexico that examines: the distribution, dynamics, and causes; ecological and economic consequences; sources and loads of nutrients transported by the Mississippi River to the Gulf of Mexico; effects of reducing nutrient loads; methods for reducing nutrient loads; and the social and economic costs and benefits of such methods.

“(b) **Submission of a Plan.**—No later than March 30, 2000, the President, in conjunction with the chief executive officers of the States, shall develop and submit to Congress a plan, based on the integrated assessment submitted under subsection (a), for reducing, mitigating, and controlling hypoxia in the northern Gulf of Mexico. In developing such plan, the President shall consult with State, Indian tribe, and local governments, academic, agricultural, industry, and environmental groups and representatives. Such plan shall include incentive-based partnership approaches. The plan shall also include the social and economic costs and benefits of the measures for reducing, mitigating, and controlling hypoxia. At least 90 days before the President submits such plan to the Congress, a summary of the proposed plan shall be published in the Federal Register for a public comment period of not less than 60 days.

“**SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to the Secretary of Commerce for research, education, and monitoring activities related to the prevention, reduction, and control of harmful algal blooms and hypoxia, \$15,000,000 for fiscal year 1999, \$18,250,000 for fiscal year 2000, \$19,000,000 for fiscal year 2001, \$23,500,000 for fiscal year 2005, \$24,500,000 for fiscal year 2006, \$25,000,000 for fiscal year 2007, and \$25,500,000 for fiscal year 2008, to remain available until expended. The Secretary shall consult with the States on a regular basis regarding the development and implementation of the activities authorized under this section. Of such amounts for each fiscal year—

“(1) \$1,500,000 for fiscal year 1999, \$1,500,000 for fiscal year 2000, \$2,000,000 for fiscal year 2001, and \$2,500,000 for each of fiscal years 2005 through 2008 may be used to enable the National Oceanic and Atmospheric Administration to carry out research and assessment activities, including procurement of necessary research equipment, at research laboratories of the National Ocean Service and the National Marine Fisheries Service;

“(2) \$4,000,000 for fiscal year 1999, \$5,500,000 for fiscal year 2000, \$5,500,000 for fiscal year 2001, and \$6,500,000, of which \$1,000,000 shall be used for the research program described in section 603(f)(2)(B), for each of fiscal years 2005 through 2008 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms (ECO HAB) project under the Coastal Ocean Program established under section 201(c) of Public Law 102-567 [106 Stat. 4280];

“(3) \$1,000,000 for fiscal year 1999, \$2,000,000 for fiscal year 2000, \$2,000,000 for fiscal year 2001, and \$3,000,000 for each of fiscal years 2005 through 2008 may be used by the National Ocean Service of the National Oceanic and Atmospheric Administration to carry out a peer-reviewed research project on

management measures that can be taken to prevent, reduce, control, and mitigate harmful algal blooms and to carry out section 603(d);

“(4) \$5,500,000 for each of the fiscal years 1999, 2000, 2001, and \$6,000,000 for each of fiscal years 2005 through 2008 may be used to carry out Federal and State annual monitoring and analysis activities for harmful algal blooms administered by the National Ocean Service of the National Oceanic and Atmospheric Administration;

“(5) \$3,000,000 for fiscal year 1999, \$3,750,000 for fiscal year 2000, \$4,000,000 for fiscal year 2001, \$4,000,000 for fiscal year 2005, \$5,000,000 for fiscal year 2006, \$5,500,000 for fiscal year 2007, and \$6,000,000 for fiscal year 2008 may be used for activities related to research and monitoring on hypoxia by the National Ocean Service and the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration; and

“(6) \$1,500,000 for each of fiscal years 2005 through 2008 to carry out section 603(e).

“**SEC. 606. PROTECTION OF STATES' RIGHTS.**

“(a) Nothing in this title shall be interpreted to adversely affect existing State regulatory or enforcement power which has been granted to any State through the Clean Water Act [33 U.S.C. 1251 et seq.] or Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.].

“(b) Nothing in this title shall be interpreted to expand the regulatory or enforcement power of the Federal Government which has been delegated to any State through the Clean Water Act or Coastal Zone Management Act of 1972.”

Findings And Purpose Of Coastal Zone Act Reauthorization Amendments Of 1990

Section 6202 of Pub. L. 101-508 provided that:

“(a) **Findings.**—Congress finds and declares the following:

“(1) Our oceans, coastal waters, and estuaries constitute a unique resource. The condition of the water quality in and around the coastal areas is significantly declining. Growing human pressures on the coastal ecosystem will continue to degrade this resource until adequate actions and policies are implemented.

“(2) Almost one-half of our total population now lives in coastal areas. By 2010, the coastal population will have grown from 80,000,000 in 1960 to 127,000,000 people, an increase of approximately 60 percent, and population density in coastal counties will be among the highest in the Nation.

“(3) Marine resources contribute to the Nation's economic stability. Commercial and recreational fishery activities support an industry with an estimated value of \$12,000,000,000 a year.

“(4) Wetlands play a vital role in sustaining the coastal economy and environment. Wetlands support and nourish fishery and marine resources. They also protect the Nation's shores from storm and wave damage. Coastal wetlands contribute an estimated \$5,000,000,000 to the production of fish and shellfish in the United States coastal waters. Yet, 50 percent of the Nation's coastal wetlands have been destroyed, and more are likely to decline in the near future.

“(5) Nonpoint source pollution is increasingly recognized as a significant factor in coastal water degradation. In urban areas, storm water and combined sewer overflow are linked to major coastal problems, and in rural areas, run-off from agricultural activities may add to coastal pollution.

“(6) Coastal planning and development control measures are essential to protect coastal water quality, which is subject to continued ongoing stresses. Currently, not enough is being done to manage and protect our coastal resources.

“(7) Global warming results from the accumulation of man-made gases, released into the atmosphere from such activities as the burning of fossil fuels, deforestation, and the production of chlorofluorocarbons, which trap solar heat in the atmosphere and raise temperatures worldwide. Global warming could result in significant global sea level rise by 2050 resulting from ocean expansion, the melting of snow and ice, and the gradual melting of the polar ice cap. Sea level rise will result in the loss of natural resources such as beaches, dunes, estuaries, and wetlands, and will contribute to the salinization of drinking water supplies. Sea level rise will also result in damage to properties, infrastructures, and public works. There is a growing need to plan for sea level rise.

“(8) There is a clear link between coastal water quality and land use activities along the shore. State management programs under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) are among the best tools for protecting coastal resources and must play a larger role, particularly in improving coastal zone water quality.

“(9) All coastal States should have coastal zone management programs in place that conform to the Coastal Zone Management Act of 1972, as amended by this Act.

“(b) **Purpose.**—It is the purpose of Congress in this subtitle [see Short Title of 1990 Amendment note above] to enhance the effectiveness of the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.] by increasing our understanding of the coastal environment and expanding the ability of State coastal zone management programs to address coastal environmental problems.”

Establishment Of Positions And Findings Of Compensation By Secretary Of Commerce; Appointments

Section 15(c) of Pub. L. 94-370 related to establishment and compensation of four new positions without regard to the provisions of chapter 51 of Title 5, Government Organization and Employees, prior to repeal by Pub. L. 99-272, title VI, Sec. 6045(3), Apr. 7, 1986, 100 Stat. 127.

Territorial Sea Of United States

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

§1452. [CZMA §303]**Congressional declaration of policy**

The Congress finds and declares that it is the national policy—

(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development, which programs should at least provide for—

(A) the protection of natural resources, including wetlands, flood plains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas likely to be affected by or vulnerable to sea level rise, land subsidence, and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands,

(C) the management of coastal development to improve, safeguard, and restore the quality of coastal waters, and to protect natural resources and existing uses of those waters,

(D) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

(E) public access to the coasts for recreation purposes,

(F) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

(G) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

(H) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

(I) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking,

(J) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and wildlife agencies, and

(K) the study and development, in any case in which the Secretary considers it to be appropriate, of plans for addressing the adverse effects upon the coastal zone of land subsidence and of sea level rise; and

(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes, and improved predictability in governmental decisionmaking;

(4) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this chapter;

(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis,

and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.

(Pub. L. 89-454, title III, §303, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1281, and amended Pub. L. 96-464, §3, Oct. 17, 1980, 94 Stat. 2060; Pub. L. 101-508, title VI, §6203(b), Nov. 5, 1990, 104 Stat. 1388-301; Pub. L. 102-587, title II, §2205(b)(2), Nov. 4, 1992, 106 Stat. 5050.)

§1453. [CZMA §304]**Definitions**

For purposes of this chapter—

(1) The term "coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749) [48 U.S.C. 731 et seq.], the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(2) The term "coastal resource of national significance" means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective value.

(3) The term "coastal waters" means (A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (B) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term "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 chapter, 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.

(5) The term "coastal energy activity" means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or operation of such equipment or facility be carried out in, or in close proximity to, the coastal zone of any coastal state;

(i) Any outer Continental Shelf energy activity.

(ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

(iii) Any transportation, transfer, or storage of oil, natural

gas, or coal (including, but not limited to, by means of any deepwater port, as defined in section 1502(10)¹ of title 33).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be “in close proximity to” the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

(6) The term “energy facilities” means any equipment or facility which is or will be used primarily—

(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.

(6a) The term “enforceable policy” means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

(7) The term “estuary” means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(8) The term “estuarine sanctuary” means a research area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(9) The term “Fund” means the Coastal Zone Management Fund established under section 308(b).

(10) The term “land use” means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 1456(g) of this title.

(11) The term “local government” means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state’s coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

(12) The term “management program” includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this chapter, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(13) The term “outer Continental Shelf energy activity” means any exploration for, or any development or production of, oil or natural gas from the outer Continental Shelf (as defined in section 1331(a) of title 43) or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production.

(14) The term “person” means any individual; any corporation, partnership, association, or other entity organized or existing under

the laws of any state; the Federal Government; any state, regional, or local government; or any entity of any such Federal, state, regional, or local government.

(15) The term “public facilities and public services” means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

(16) The term “Secretary” means the Secretary of Commerce.

(17) The term “special area management plan” means a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

(18) The term “water use” means a use, activity, or project conducted in or on waters within the coastal zone.

(Pub. L. 89-454, title III, §304, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1281, and amended Pub. L. 94-370, §3, July 26, 1976, 90 Stat. 1013; Pub. L. 96-464, §4, Oct. 17, 1980, 94 Stat. 2061; Pub. L. 101-508, title VI, §6204, Nov. 5, 1990, 104 Stat. 1388-302; Pub. L. 102-587, §2205(b), Nov. 4, 1992, 106 Stat. 5050, 5051.)

References In Text

The Submerged Lands Act, referred to in par. (1), is act May 22, 1953, ch. 65, 67 Stat. 29, as amended, which is classified generally to subchapters I and II (Secs. 1301 et seq., 1311 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

Act of March 2, 1917, referred to in par. (1), is act Mar. 2, 1917, ch. 145, 39 Stat. 951, as amended, known as the Puerto Rican Federal Relations Act and also as the Jones Act, which is classified principally to chapter 4 (Sec. 731 et seq.) of Title 48, Territories and Insular Possessions. Section 8 of the Act is classified to section 749 of Title 48. For complete classification of this Act to the Code, see Short Title note set out under section 731 of Title 48 and Tables.

Act of March 24, 1976, referred to in par. (1), is Pub. L. 94-241, Mar. 24, 1976, 90 Stat. 263, as amended, which is classified generally to subchapter I (Sec. 1801 et seq.) of chapter 17 of Title 48. The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America is set out as a note under section 1801 of Title 48. For complete classification of this Act to the Code, see Tables.

Section 1 of the Act of November 20, 1963, referred to in par. (1), is section 1 of Pub. L. 88-183, Nov. 20, 1963, 77 Stat. 338, which was classified to section 1701 of Title 48, and was repealed by Pub. L. 93-435, Sec. 5, Oct. 5, 1974, 88 Stat. 1212. See section 1705 of Title 48.

Section 1502 of title 33, referred to in par. (5)(iii), was subsequently amended, and section 1502(10) no longer defines the term “deepwater port”. However, such term is defined elsewhere in that section.

Termination Of Trust Territory Of The Pacific Islands

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§1454. [CZMA §305]

Submittal of State program for approval

Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 1455 of this title.

(Pub. L. 89-454, title III, §305, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1282; amended Pub. L. 93-612, §1(1), Jan. 2, 1975, 88 Stat. 1974; Pub. L. 94-370, §4, July 26, 1976, 90 Stat. 1015; Pub. L. 101-508, title VI, §6205, Nov. 5, 1990, 104 Stat. 1388-302; Pub. L. 102-587, title II, §2205(b)(1)(A), Nov. 4, 1992, 106 Stat. 5050; Pub. L. 104-150, §2(a), (b)(1), June 3, 1996, 110 Stat. 1380.)

Effective Date Of 1996 Amendment

Section 2(b)(3) of Pub. L. 104-150 provided that: “This subsection [amending this section and section 1456a of this title] shall take effect on October 1, 1999.”

1. See References in Text note below.

§1455. [CZMA §306]**Administrative grants****(a) Authorization; matching funds**

The Secretary may make grants to any coastal state for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

(1) For those States for which programs were approved prior to November 5, 1990, 1 to 1 for any fiscal year.

(2) For programs approved after November 5, 1990, 4 to 1 for the first fiscal year, 2.3 to 1 for the second fiscal year, 1.5 to 1 for the third fiscal year, and 1 to 1 for each fiscal year thereafter.

(b) Grants to coastal states; requirements

The Secretary may make a grant to a coastal state under subsection (a) of this section only if the Secretary finds that the management program of the coastal state meets all applicable requirements of this chapter and has been approved in accordance with subsection (d) of this section.

(c) Allocation of grants to coastal states

Grants under this section shall be allocated to coastal states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Secretary shall establish, after consulting with the coastal states, maximum and minimum grants for any fiscal year to promote equity between coastal states and effective coastal management.

(d) Mandatory adoption of State management program for coastal zone

Before approving a management program submitted by a coastal state, the Secretary shall find the following:

(1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this chapter and is consistent with the policy declared in section 1452 of this title.

(2) The management program includes each of the following required program elements:

(A) An identification of the boundaries of the coastal zone subject to the management program.

(B) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

(C) An inventory and designation of areas of particular concern within the coastal zone.

(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

(G) A definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.

(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of,

shoreline erosion, and to restore areas adversely affected by such erosion.

(3) The State has—

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

(i) existing on January 1 of the year in which the State's management program is submitted to the Secretary; and

(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this chapter; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

(I) shall consider the comments;

(II) may, in its discretion, hold a public hearing on the comments; and

(III) may not take any action within the 30-day period to implement the management program decision.

(4) The State has held public hearings in the development of the management program.

(5) The management program and any changes thereto have been reviewed and approved by the Governor of the State.

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(A) to administer land use and water use regulations to control development² to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(11) The management program provides for any one or a combi-

2. So in original. Probably should be followed by a comma.

nation of the following general techniques for control of land uses and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

(B) Direct State land and water use planning and regulation.

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

(13) The management program provides for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

(16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 1455b of this title.

(e) Amendment or modification of State management program for coastal zone

A coastal state may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:

(1) The State shall promptly notify the Secretary of any proposed amendment, modification, or other program change and submit it for the Secretary's approval. The Secretary may suspend all or part of any grant made under this section pending State submission of the proposed amendments, modification, or other program change.

(2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal state that the Secretary approves or disapproves the amendment within that period, then the amendment shall be conclusively presumed as approved.

(3)(A) Except as provided in subparagraph (B), a coastal state may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

(B) The Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which has been given preliminary approval and is not finally approved under this paragraph shall not be considered an enforceable policy for purposes of section 1456 of this title.

(Pub. L. 89-454, title III, §306, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1283, and amended Pub. L. 93-612, §1(2), Jan. 2, 1975, 88 Stat. 1974; Pub. L. 94-370, §5, July 26, 1976, 90 Stat. 1017; Pub. L. 96-464, §5(a), Oct. 17, 1980, 94 Stat. 2062; Pub. L. 99-272, title VI, §6043(b)(1), (c), Apr. 7, 1986, 100 Stat.

124, 125; Pub. L. 101-508, title VI, §6206(a), Nov. 5, 1990, 104 Stat. 1388-303; Pub. L. 102-587, §2205(b)(1)(A), Nov. 4, 1992, 106 Stat. 5050, 5051.)

References In Text

The National Environmental Policy Act of 1969, referred to in subsec. (e)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (Sec. 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Effective Date Of 1980 Amendment

Section 5(b) of Pub. L. 96-464 provided that: "The amendments made by subsection (a)(1) and (2) of this section [amending this section] apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 (this section) and, within two hundred and seventy days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a)(1))."

Additional Program Requirements

Section 6206(b) of title VI of Pub. L. 101-508 provided that: "Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], as amended by this subtitle (including a State which submitted a program before the date of enactment of this Act [Nov. 5, 1990]), shall demonstrate to the Secretary—

"(1) that the program complies with section 306(d)(14) and (15) of that Act, by not later than 3 years after the date of the enactment of this Act; and

"(2) that the program complies with section 306(d)(16) of that Act, by not later than 30 months after the date of publication of final guidance under section 6217(g) of this Act [16 U.S.C. 1455b(g)]."

§1455a. [CZMA §306A]

Coastal resource improvement program

(a) Definitions

For purposes of this section—

(1) The term "eligible coastal state" means a coastal state that for any fiscal year for which a grant is applied for under this section—

(A) has a management program approved under section 1455 of this title; and

(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (K).

(2) The term "urban waterfront and port" means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

(b) Resource management improvement grants

The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 1455(d)(9) of this title because of their conservation recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts.

(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated in the state's management program pursuant to section 306(d)(2)(C) as areas of particular concern.

(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 306(d)(2)(G).

(4) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone.

(c) Uses, terms and conditions of grants

(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for—

(A) the acquisition of fee simple and other interests in land;

(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including

but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

(C) in the case of grants made for objectives described in subsection (b)(2) of this section—

(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity.

(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas,

but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

(D) engineering designs, specifications, and other appropriate reports; and

(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

(d) State matching contributions; ratio; maximum amount of grants

(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.

(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

(e) Allocation of grants to local governments and other agencies

With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 3334 of title 42, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

(f) Other technical and financial assistance

In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.

(Pub. L. 89-454, title II, §306A, as added Pub. L. 96-464, §6, Oct. 17, 1980, 94 Stat. 2062, and amended Pub. L. 99-272, title VI, §6043(b)(2), Apr. 7, 1986, 100 Stat. 124; Pub. L. 101-508, title VI, §6207, 6216(a), Nov. 5, 1990, 104 Stat. 1388-307, 1388-314; Pub. L. 102-587, §2205(b), Nov. 4, 1992, 106 Stat. 5050, 5051; Pub. L. 104-150, §7(1), June 3, 1996, 110 Stat. 1381.)

§1455b.

Protecting coastal waters

(a) In general

(1) Program development

Not later than 30 months after the date of the publication of final guidance under subsection (g) of this section, each State for which a management program has been approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall prepare and submit to the Secretary and the Administrator a Coastal Nonpoint Pollution Control Program for approval pursuant to this section. The purpose of the program shall be to develop and implement management measures for nonpoint source pollution to re-

store and protect coastal waters, working in close conjunction with other State and local authorities.

(2) Program coordination

A State program under this section shall be coordinated closely with State and local water quality plans and programs developed pursuant to sections 1288, 1313, 1329, and 1330 of title 33 and with State plans developed pursuant to the Coastal Zone Management Act of 1972, as amended by this Act (16 U.S.C. 1451 et seq.). The program shall serve as an update and expansion of the State nonpoint source management program developed under section 1329 of title 33, as the program under that section relates to land and water uses affecting coastal waters.

(b) Program contents

Each State program under this section shall provide for the implementation, at a minimum, of management measures in conformity with the guidance published under subsection (g) of this section, to protect coastal waters generally, and shall also contain the following:

(1) Identifying land uses

The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes; or

(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources.

(2) Identifying critical coastal areas

The identification of, and a continuing process for identifying, critical coastal areas adjacent to coastal waters referred to in paragraph (1)(A) and (B), within which any new land uses or substantial expansion of existing land uses shall be subject to management measures in addition to those provided for in subsection (g) of this section.

(3) Management measures

The implementation and continuing revision from time to time of additional management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that are necessary to achieve and maintain applicable water quality standards under section 1313 of title 33 and protect designated uses.

(4) Technical assistance

The provision of technical and other assistance to local governments and the public for implementing the measures referred to in paragraph (3), which may include assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

(5) Public participation

Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

(6) Administrative coordination

The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, memoranda of agreement, or other mechanisms.

(7) State coastal zone boundary modification

A proposal to modify the boundaries of the State coastal zone as the coastal management agency of the State determines is necessary to implement the recommendations made pursuant to subsection (e) of this section. If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

(c) Program submission, approval, and implementation**(1) Review and approval**

Within 6 months after the date of submission by a State of a program pursuant to this section, the Secretary and the Administrator shall jointly review the program. The program shall be approved if—

(A) the Secretary determines that the portions of the program under the authority of the Secretary meet the requirements of this section and the Administrator concurs with that determination; and

(B) the Administrator determines that the portions of the program under the authority of the Administrator meet the requirements of this section and the Secretary concurs with that determination.

(2) Implementation of approved program

If the program of a State is approved in accordance with paragraph (1), the State shall implement the program, including the management measures included in the program pursuant to subsection (b) of this section, through—

(A) changes to the State plan for control of nonpoint source pollution approved under section 1329 of title 33; and

(B) changes to the State coastal zone management program developed under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act (16 U.S.C. 1455).

(3) Withholding coastal management assistance

If the Secretary finds that a coastal state has failed to submit an approvable program as required by this section, the Secretary shall withhold for each fiscal year until such a program is submitted a portion of grants otherwise available to the State for the fiscal year under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), as follows:

(A) 10 percent for fiscal year 1996.

(B) 15 percent for fiscal year 1997.

(C) 20 percent for fiscal year 1998.

(D) 30 percent for fiscal year 1999 and each fiscal year thereafter.

The Secretary shall make amounts withheld under this paragraph available to coastal states having programs approved under this section.

(4) Withholding water pollution control assistance

If the Administrator finds that a coastal state has failed to submit an approvable program as required by this section, the Administrator shall withhold from grants available to the State under section 1329 of title 33, for each fiscal year until such a program is submitted, an amount equal to a percentage of the grants awarded to the State for the preceding fiscal year under that section, as follows:

(A) For fiscal year 1996, 10 percent of the amount awarded for fiscal year 1995.

(B) For fiscal year 1997, 15 percent of the amount awarded for fiscal year 1996.

(C) For fiscal year 1998, 20 percent of the amount awarded for fiscal year 1997.

(D) For fiscal year 1999 and each fiscal year thereafter, 30 percent of the amount awarded for fiscal year 1998 or other preceding fiscal year.

The Administrator shall make amounts withheld under this paragraph available to States having programs approved pursuant to this subsection.

(d) Technical assistance

The Secretary and the Administrator shall provide technical assistance to coastal states and local governments in developing and implementing programs under this section. Such assistance shall include—

(1) methods for assessing water quality impacts associated with coastal land uses;

(2) methods for assessing the cumulative water quality effects of coastal development;

(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal states and local governments in identifying, developing, and implementing pollution control measures; and

(4) methods to predict and assess the effects of coastal land use

management measures on coastal water quality and designated uses.

(e) Inland coastal zone boundaries**(1) Review**

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after November 5, 1990, review the inland coastal zone boundary of each coastal state program which has been approved or is proposed for approval under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

(2) Recommendation

If the Secretary, in consultation with the Administrator, finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Secretary, in consultation with the Administrator, shall recommend appropriate modifications in writing to the affected State.

(f) Financial assistance**(1) In general**

Upon request of a State having a program approved under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], the Secretary, in consultation with the Administrator, may provide grants to the State for use for developing a State program under this section.

(2) Amount

The total amount of grants to a State under this subsection shall not exceed 50 percent of the total cost to the State of developing a program under this section.

(3) State share

The State share of the cost of an activity carried out with a grant under this subsection shall be paid from amounts from non-Federal sources.

(4) Allocation

Amounts available for grants under this subsection shall be allocated among States in accordance with regulations issued pursuant to section 306(c) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(c)], except that the Secretary may use not more than 25 percent of amounts available for such grants to assist States which the Secretary, in consultation with the Administrator, determines are making exemplary progress in preparing a State program under this section or have extreme needs with respect to coastal water quality.

(g) Guidance for coastal nonpoint source pollution control**(1) In general**

The Administrator, in consultation with the Secretary and the Director of the United States Fish and Wildlife Service and other Federal agencies, shall publish (and periodically revise thereafter) guidance for specifying management measures for sources of nonpoint pollution in coastal waters.

(2) Content

Guidance under this subsection shall include, at a minimum—

(A) a description of a range of methods, measures, or practices, including structural and nonstructural controls and operation and maintenance procedures, that constitute each measure;

(B) a description of the categories and subcategories of activities and locations for which each measure may be suitable;

(C) an identification of the individual pollutants or categories or classes of pollutants that may be controlled by the measures and the water quality effects of the measures;

(D) quantitative estimates of the pollution reduction effects and costs of the measures;

(E) a description of the factors which should be taken into account in adapting the measures to specific sites or locations; and

(F) any necessary monitoring techniques to accompany the measures to assess over time the success of the measures in reducing pollution loads and improving water quality.

(3) Publication

The Administrator, in consultation with the Secretary, shall publish—

(A) proposed guidance pursuant to this subsection not later than 6 months after November 5, 1990; and

(B) final guidance pursuant to this subsection not later than 18 months after November 5, 1990.

(4) Notice and comment

The Administrator shall provide to coastal states and other interested persons an opportunity to provide written comments on proposed guidance under this subsection.

(5) Management measures

For purposes of this subsection, the term “management measures” means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

(h) Authorization of appropriations**(1) Administrator**

There is authorized to be appropriated to the Administrator for use for carrying out this section not more than \$1,000,000 for each of fiscal years 1992, 1993, and 1994.

(2) Secretary

(A) Of amounts appropriated to the Secretary for a fiscal year under section 318(a)(4)³ of the Coastal Zone Management Act of 1972, as amended by this Act [16 U.S.C. 1464(a)(4)], not more than \$1,000,000 shall be available for use by the Secretary for carrying out this section for that fiscal year, other than for providing in the form of grants under subsection (f) of this section.

(B) There is authorized to be appropriated to the Secretary for use for providing in the form of grants under subsection (f) of this section not more than—

- (i) \$6,000,000 for fiscal year 1992;
- (ii) \$12,000,000 for fiscal year 1993;
- (iii) \$12,000,000 for fiscal year 1994; and
- (iv) \$12,000,000 for fiscal year 1995.

(i) Definitions

In this section—

(1) the term “Administrator” means the Administrator of the Environmental Protection Agency;

(2) the term “coastal state” has the meaning given the term “coastal state” under section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453);

(3) each of the terms “coastal waters” and “coastal zone” has the meaning that term has in the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.];

(4) the term “coastal management agency” means a State agency designated pursuant to section 306(d)(6) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(d)(6)];

(5) the term “land use” includes a use of waters adjacent to coastal waters; and

(6) the term “Secretary” means the Secretary of Commerce.

(Pub. L. 101-508, title VI, §6217, Nov. 5, 1990, 104 Stat. 1388-314; Pub. L. 102-587, §2205(b)(24), Nov. 4, 1992, 106 Stat. 5052.)

References In Text

The Coastal Zone Management Act of 1972, referred to in subsecs. (a)(2) and (i)(3), is title III of Pub. L. 89-454 as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to this chapter (Sec. 1451 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

This Act, referred to in subsecs. (a)(2) and (c)(2)(B), is Pub. L. 101-508, Nov. 5, 1990, 104 Stat. 1388, known as the Omnibus Budget Reconciliation Act of 1990. For complete classification of this Act to the Code, see Tables.

Section 318(a) of the Coastal Zone Management Act of 1972, referred to in subsec. (h)(2)(A), which is classified to section 1464(a) of this title, was amended by

Pub. L. 104-150, Sec. 4(1), June 3, 1996, 110 Stat. 1381, and, as so amended, does not contain a par. (4).

Codification

Section was enacted as part of the Coastal Zone Act Reauthorization Amendments of 1990 and also as part of the Omnibus Budget Reconciliation Act of 1990, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

§1456. [CZMA §307]**Coordination and cooperation****(a) Federal agencies**

In carrying out his functions and responsibilities under this chapter, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) Adequate consideration of views of Federal agencies

The Secretary shall not approve the management program submitted by a state pursuant to section 1455 of this title unless the views of Federal agencies principally affected by such program have been adequately considered.

(c) Consistency of Federal activities with State management programs; Presidential exemption; certification

(1)(A) Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3).

(B) After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subparagraph (A), and certification by the Secretary that mediation under subsection (h) of this section is not likely to result in such compliance, the President may, upon written request from the Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted on the basis of a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

(C) Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 1455(d)(6) of this title at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with the enforceable policies of approved state management programs.

(3)(A) After final approval by the Secretary of a state’s management program, any applicant for a required Federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state’s approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection

3. See References in Text note below.

therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

(B) After the management program of any coastal state has been approved by the Secretary under section 1455 of this title, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land or water use or natural resource of the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with the enforceable policies of such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or

(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.

(d) Application of local governments for Federal assistance; relationship of activities with approved management programs

State and local governments submitting applications for Federal as-

sistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of natural resource of the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of section 6506 of title 31. Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this chapter or necessary in the interest of national security.

(e) Construction with other laws

Nothing in this chapter shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(f) Construction with existing requirements of water and air pollution programs

Notwithstanding any other provision of this chapter, nothing in this chapter shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this chapter and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) Concurrence with programs which affect inland areas

When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 1455 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

(h) Mediation of disagreements

In case of serious disagreement between any Federal agency and a coastal state—

(1) in the development or the initial implementation of a management program under section 1454 of this title; or

(2) in the administration of a management program approved under section 1455 of this title;

the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.

(i) Application fee for appeals

(1) With respect to appeals under subsections (c)(3) and (d) of this section which are submitted after November 5, 1990, the Secretary shall collect an application fee of not less than \$200 for minor appeals and not less than \$500 for major appeals, unless the Secretary, upon consideration of an applicant's request for a fee waiver, determines that the applicant is unable to pay the fee.

(2)(A) The Secretary shall collect such other fees as are neces-

sary to recover the full costs of administering and processing such appeals under subsection (c) of this section.

(B) If the Secretary waives the application fee under paragraph (1) for an applicant, the Secretary shall waive all other fees under this subsection for the applicant.

(3) Fees collected under this subsection shall be deposited into the Coastal Zone Management Fund established under section 308.

(Pub. L. 89-454, title III, §307, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1285, and amended Pub. L. 94-370, §6, July 26, 1976, 90 Stat. 1018; Pub. L. 95-372, title V, §504, Sept. 18, 1978, 92 Stat. 693; Pub. L. 101-508, title VI, §6208, Nov. 5, 1990, 104 Stat. 1388-307; Pub. L. 102-587, §2205(b)(13), (14), Nov. 4, 1992, 106 Stat. 5051.)

References In Text

The Outer Continental Shelf Lands Act, referred to in subsec. (c)(3)(B), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (Sec. 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (f), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, Sec. 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (Sec. 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Clean Air Act, referred to in subsec. (f), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (Sec. 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

Codification

In subsec. (d), “section 6506 of title 31” substituted for “title IV of the Intergovernmental Coordination (Cooperation) Act of 1968 (42 U.S.C. 4231 et seq.)” on authority of Pub. L. 97-258, Sec. 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§1456a. [CZMA §308]

Coastal Zone Management Fund

(a)(1) The obligations of any coastal state or unit of general purpose local government to repay loans made pursuant to this section as in effect before November 5, 1990, and any repayment schedule established pursuant to this chapter as in effect before November 5, 1990, are not altered by any provision of this chapter. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal state or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

(A) Modify the terms and conditions of such loan.

(B) Refinance the loan.

(C) Recommend to the Congress that legislation be enacted to forgive the loan.

(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection (b) of this section.

(b)(1) The Secretary shall establish and maintain a fund, to be known as the “Coastal Zone Management Fund”, which shall consist of amounts retained and deposited into the Fund under subsection (a) of this section and fees deposited into the Fund under section 307(i)(3).

(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use for the following:

(A) Expenses incident to the administration of this title, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

(i) \$4,000,000; or

(ii) 8 percent of the total amount appropriated under this title for the fiscal year.

(B) After use under subparagraph (A)—

(i) projects to address management issues which are regional in scope, including interstate projects;

(ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

(iii) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

(iv) appropriate awards recognizing excellence in coastal zone management as provided in section 1460 of this title; and

(v) to provide financial support to coastal states for use for investigating and applying the public trust doctrine to implement State management programs approved under section 1455 of this title.

(Pub. L. 89-454, title III, §308, as added Pub. L. 94-370, §7, July 26, 1976, 90 Stat. 1019, and amended Pub. L. 95-372, title V, §501, 503(a)-(d), Sept. 18, 1978, 92 Stat. 690, 692, 693; Pub. L. 96-464, §7, Oct. 17, 1980, 94 Stat. 2064; Pub. L. 99-272, title VI, §6047, Apr. 7, 1986, 100 Stat. 128; Pub. L. 101-508, title VI, §6209, Nov. 5, 1990, 104 Stat. 1388-308; Pub. L. 102-587, §2205(b), Nov. 4, 1992, 106 Stat. 5050, 5052; Pub. L. 104-150, §2(b)(2), 5, June 3, 1996, 110 Stat. 1380, 1381.)

Codification

Subsec. (b)(3) of this section, which required the Secretary to transmit to Congress an annual report of the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See also page 143 of House Document No. 103-7.

Effective Date Of 1996 Amendment

Amendment by section 2(b)(2) of Pub. L. 104-150 effective Oct. 1, 1999, see section 2(b)(3) of Pub. L. 104-150, set out as a note under section 1454 of this title.

Extension Of Authority To Make Loans Under Subsection (d)(1)

Pub. L. 99-626, Sec. 6, Nov. 7, 1986, 100 Stat. 3506, provided that: “The authority of the Secretary of Commerce to make loans under paragraph (1) of subsection (d) of section 308 of the Coastal Zone Management Act of 1972 (Public Law 92-583, 16 U.S.C. 1451, et seq.) as amended [16 U.S.C. 1456a(d)(1)], shall extend to September 30, 1987, for loans made to eligible States or units pursuant to and in accord with agreements entered into between the Secretary and any State prior to September 30, 1986, that provided for a total sum of loans to be made to that State or its units, but such loan authority shall be limited to \$7,000,000.”

§1456b. [CZMA §309]

Coastal zone enhancement grants

(a) “Coastal zone enhancement objective” defined

For purposes of this section, the term “coastal zone enhancement objective” means any of the following objectives:

(1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.

(2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.

(3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.

(4) Reducing marine debris entering the Nation’s coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.

(5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.

(6) Preparing and implementing special area management plans for important coastal areas.

(7) Planning for the use of ocean resources.

(8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.

(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

(b) Limits on grants

(1) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal states to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

(2)(A) In addition to any amounts provided under section 306, and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 306(e).

(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.

(c) Evaluation of State proposals by Secretary

The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the criteria established by the Secretary under subsection (d) of this section. The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

(d) Promulgation of regulations by Secretary

Within 12 months following November 5, 1990, and consistent with the notice and participation requirements established in section 1463 of this title, the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish—

(1) specific and detailed criteria that must be addressed by a coastal state (including the State's priority needs for improvement as identified by the Secretary after careful consultation with the State) as part of the State's development and implementation of coastal zone enhancement objectives;

(2) administrative or procedural rules or requirements as necessary to facilitate the development and implementation of such objectives by coastal states; and

(3) other funding award criteria as are necessary or appropriate to ensure that evaluations of proposals, and decisions to award funding, under this section are based on objective standards applied fairly and equitably to those proposals.

(e) No State contribution required

A State shall not be required to contribute any portion of the cost of any proposal for which funding is awarded under this section.

(f) Funding

Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement sections 1455 and 1455a of this title shall be retained by the Secretary for use in implementing this section, up to a maximum of \$10,000,000 annually.

(g) Eligibility; suspension of State for noncompliance

If the Secretary finds that the State is not undertaking the actions committed to under the terms of the grant, the Secretary shall suspend the State's eligibility for further funding under this section for at least one year.

(Pub. L. 89-454, title III, §309, as added Pub. L. 94-370, §8, July 26, 1976, 90 Stat. 1028, and amended Pub. L. 96-464, §8, Oct. 17, 1980, 94 Stat. 2064; Pub. L. 101-508, title VI, §6210, Nov. 5, 1990, 104 Stat. 1388-309; Pub. L. 102-587, §2205(b)(1)(B), Nov. 4, 1992, 106 Stat. 5050; Pub. L. 104-150, §§3, 7(2), June 3, 1996, 110 Stat. 1380, 1382.)

Codification

November 5, 1990, referred to in subsec. (d), was in the original "the date of enactment of this section", and was translated as meaning the date of enactment of section 6210 of Pub. L. 101-508, which amended this section generally, to reflect the probable intent of Congress.

§1456c. [CZMA §310]**Technical assistance**

(a) The Secretary shall conduct a program of technical assistance and management-oriented research necessary to support the development and implementation of State coastal management program amendments under section 1456b of this title, and appropriate to the furtherance of international cooperative efforts and technical assistance in coastal zone management. Each department, agency, and in-

strumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and technical assistance which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.

(b)(1) The Secretary shall provide for the coordination of technical assistance, studies, and research activities under this section with any other such activities that are conducted by or subject to the authority of the Secretary.

(2) The Secretary shall make the results of research and studies conducted pursuant to this section available to coastal states in the form of technical assistance publications, workshops, or other means appropriate.

(3) The Secretary shall consult with coastal states on a regular basis regarding the development and implementation of the program established by this section.

(Pub. L. 89-454, title III, §310, as added Pub. L. 101-508, title VI, §6211, Nov. 5, 1990, 104 Stat. 1388-311.)

Prior Provisions

A prior section 1456c, Pub. L. 89-454, title III, Sec. 310, as added Pub. L. 94-370, Sec. 9, July 26, 1976, 90 Stat. 1029, which related to research and technical assistance for coastal zone management, was repealed by Pub. L. 99-272, title VI, Sec. 6045(1), Apr. 7, 1986, 100 Stat. 127.

§1456d.**Coastal and Estuarine Land Conservation Program**

The Secretary shall establish a Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses: Provided further, That by September 30, 2002, the Secretary shall issue guidelines for this program delineating the criteria for grant awards: Provided further, That the Secretary shall distribute these funds in consultation with the States' Coastal Zone Managers' or Governors' designated representatives based on demonstrated need and ability to successfully leverage funds, and shall give priority to lands which can be effectively managed and protected and which have significant ecological value: Provided further, That grants funded under this program shall require a 100 percent match from other sources.

(Pub. L. 107-77, title II, Nov. 28, 2001, 115 Stat. 776.)

Codification

Section was enacted as part of the Department of Commerce and Related Agencies Appropriations Act, 2002, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

Similar Provisions

Pub. L. 108-7, div. B, title II, Feb. 20, 2003, 117 Stat. 75, provided in part: "That the Secretary shall establish a Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses".

§1457. [CZMA §311]**Public hearings**

All public hearings required under this chapter must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

(Pub. L. 89-454, title III, §311, formerly §308, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287, and renumbered §311, Pub. L. 94-370, §7, July 26, 1976, 90 Stat. 1019.)

§1458. [CZMA §312]**Review of performance****(a) Evaluation of adherence with terms of grants**

The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 1452(2)(A) through (K) of this title, and adhered to the terms of any grant, loan, or cooperative agreement funded under this chapter.

(b) Public participation; notice of meetings; reports

In evaluating a coastal state's performance, the Secretary shall conduct the evaluation in an open and public manner, and provide full opportunity for public participation, including holding public meetings in the State being evaluated and providing opportunities for the submission of written and oral comments by the public. The Secretary shall provide the public with at least 45 days' notice of such public meetings by placing a notice in the Federal Register, by publication of timely notices in newspapers of general circulation within the State being evaluated, and by communications with persons and organizations known to be interested in the evaluation. Each evaluation shall be prepared in report form and shall include written responses to the written comments received during the evaluation process. The final report of the evaluation shall be completed within 120 days after the last public meeting held in the State being evaluated. Copies of the evaluation shall be immediately provided to all persons and organizations participating in the evaluation process.

(c) Suspension of financial assistance for noncompliance; notification of Governor; length of suspension

(1) The Secretary may suspend payment of any portion of financial assistance extended to any coastal state under this chapter, and may withdraw any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to (A) the management program or a State plan developed to manage a national estuarine reserve established under section 1461 of this title, or a portion of the program or plan approved by the Secretary, or (B) the terms of any grant or cooperative agreement funded under this chapter.

(2) Financial assistance may not be suspended under paragraph (1) unless the Secretary provides the Governor of the coastal state with—

(A) written specifications and a schedule for the actions that should be taken by the State in order that such suspension of financial assistance may be withdrawn; and

(B) written specifications stating how those funds from the suspended financial assistance shall be expended by the coastal state to take the actions referred to in subparagraph (A). (3) The suspension of financial assistance may not last for less than 6 months or more than 36 months after the date of suspension.

(d) Withdrawal of approval of program

The Secretary shall withdraw approval of the management program of any coastal state and shall withdraw financial assistance available to that State under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state has failed to take the actions referred to in subsection (c)(2)(A) of this section.

(e) Notice and hearing

Management program approval and financial assistance may not be withdrawn under subsection (d) of this section, unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d) of this section, the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

(Pub. L. 89-454, title III, §312, formerly §309, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287, renumbered §312 and amended Pub. L. 94-370, §7, 10, July 26, 1976, 90 Stat. 1019, 1029; Pub. L. 96-464, §9(a), Oct. 17, 1980, 94

Stat. 2065; Pub. L. 99-272, title VI, §6043(a), Apr. 7, 1986, 100 Stat. 124; Pub. L. 101-508, title VI, §6212, 6216(b), Nov. 5, 1990, 104 Stat. 1388-311, 1388-314; Pub. L. 102-587, §2205(b)(1), Nov. 4, 1992, 106 Stat. 5050.)

Regulations

Section 9(b) of Pub. L. 96-464 provided that: "Within two hundred and seventy days after the date of the enactment of this Act [Oct. 17, 1980], the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section) [this section]."

§1459. [CZMA §313]**Records and audit****(a) Maintenance of records by recipients of grants or financial assistance**

Each recipient of a grant under this chapter or of financial assistance under section 1456a of this title, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant and of the proceeds of such assistance, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access by Secretary and Comptroller General to records, books, etc., of recipients of grants or financial assistance for audit and examination

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

(1) after any grant is made under this chapter or any financial assistance is provided under section 1456a, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990; and

(2) until the expiration of 3 years after—

(A) completion of the project, program, or other undertaking for which such grant was made or used, or

(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided,

have access for purposes of audit and examination to any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this chapter.

(Pub. L. 89-454, title III, §313, formerly §310, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287, renumbered §313 and amended Pub. L. 94-370, §7, 11, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 102-587, §2205(b)(19), Nov. 4, 1992, 106 Stat. 5052.)

§1460. [CZMA §314]**Walter B. Jones excellence in coastal zone management awards****(a) Establishment**

The Secretary shall, using sums in the Coastal Zone Management Fund established under section 1456a of this title and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315), implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

(b) Annual selection of recipients

The Secretary shall elect annually—

(1) one individual, other than an employee or officer of the Federal Government, whose contribution to the field of coastal zone management has been the most significant;

(2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this chapter; and

(3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.

(c) Solicitation of nominations for local government recipients

In making selections under subsection (b)(2) of this section the Sec-

retary shall solicit nominations from the coastal states, and shall consult with experts in local government planning and land use.

(d) Solicitation of nominations for graduate student recipients

In making selections under subsection (b)(3) of this section the Secretary shall solicit nominations from coastal states and the National Sea Grant College Program.

(e) Funding; types of awards

Using sums in the Coastal Zone Management Fund established under section 1456a of this title and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315), the Secretary shall establish and execute appropriate awards, to be known as the "Walter B. Jones Awards", including—

- (1) cash awards in an amount not to exceed \$5,000 each;
- (2) research grants; and
- (3) public ceremonies to acknowledge such awards.

(Pub. L. 89-454, title III, §313, as added Pub. L. 101-508, title VI, §6213, Nov. 5, 1990, 104 Stat. 1388-312; Pub. L. 102-587, §2205(b)(20), Nov. 4, 1992, 106 Stat. 5052.)

Prior Provisions

A prior section 1460, Pub. L. 89-454, title III, Sec. 314, formerly Sec. 311, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287, and renumbered Sec. 314, Pub. L. 94-370, Sec. 7, July 26, 1976, 90 Stat. 1019, which related to establishment, etc., of Coastal Zone Management Advisory Committee, was repealed by Pub. L. 99-272, title VI, Sec. 6045(2), Apr. 7, 1986, 100 Stat. 127.

§1461. [CZMA §315]

National Estuarine Research Reserve System

(a) Establishment of System

There is established the National Estuarine Research Reserve System (hereinafter referred to in this section as the "System") that consists of—

- (1) each estuarine sanctuary designated under this section as in effect before April 7, 1986; and
- (2) each estuarine area designated as a national estuarine reserve under subsection (b) of this section.

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

(b) Designation of national estuarine reserves

After April 7, 1986, the Secretary may designate an estuarine area as a national estuarine reserve if—

- (1) the Governor of the coastal state in which the area is located nominates the area for that designation; and
- (2) the Secretary finds that—
 - (A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;
 - (B) the law of the coastal state provides long-term protection for reserve resources to ensure a stable environment for research;
 - (C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and
 - (D) the coastal state in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

(c) Estuarine research guidelines

The Secretary shall develop guidelines for the conduct of research within the System that shall include—

- (1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;
- (2) the establishment of common research principles and objectives to guide the development of research programs within the System;
- (3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;
- (4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within

the System in addressing the coastal management issues identified in paragraph (1) may be measured; and

- (5) the consideration of additional sources of funds for estuarine research than the funds authorized under this chapter, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d) of this section.

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

(d) Promotion and coordination of estuarine research

The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

- (1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority consideration to research that uses the System; and
- (2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

(e) Financial assistance

(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

- (A) to a coastal state—
 - (i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,
 - (ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or
 - (iii) for purposes of conducting educational or interpretive activities; and

(B) to any coastal state or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c) of this section.

(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal states to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein or \$5,000,000, whichever amount is less.

(B) The amount of the financial assistance provided under paragraph (1)(A)(ii) and (iii) and paragraph (1)(B) may not exceed 70 percent of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve; except that the amount of the financial assistance provided under paragraph (1)(A)(iii) may be up to 100 percent of any costs for activities that benefit the entire System.

(C) Notwithstanding subparagraphs (A) and (B), financial assistance under this subsection provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance.

(f) Evaluation of System performance

(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c) of this section, the Secretary may suspend the eligibility of that reserve for financial assistance.

tance under subsection (e) of this section until the deficiency or inconsistency is remedied.

(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

(A) the basis for any one or more of the findings made under subsection (b)(2) of this section regarding that area no longer exists; or

(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c) of this section.

(g) Report

The Secretary shall include in the report required under section 1462 of this title information regarding—

(1) new designations of national estuarine reserves;

(2) any expansion of existing national estuarine reserves;

(3) the status of the research program being conducted within the System; and

(4) a summary of the evaluations made under subsection (f) of this section.

(Pub. L. 89-454, title III, §315, formerly §312, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288, renumbered §315 and amended Pub. L. 94-370, §7, 12, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 96-464, §11, Oct. 17, 1980, 94 Stat. 2067; Pub. L. 99-272, title VI, §6044, Apr. 7, 1986, 100 Stat. 125; Pub. L. 101-508, title VI, §6214, Nov. 5, 1990, 104 Stat. 1388-313; Pub. L. 102-587, §2205(b), Nov. 4, 1992, 106 Stat. 5050, 5052; Pub. L. 104-150, §6, June 3, 1996, 110 Stat. 1381.)

§1462. [CZMA §316]

Coastal zone management reports

(a) Biennial reports

The Secretary shall consult with the Congress on a regular basis concerning the administration of this chapter and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this chapter during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to (1) an identification of the state programs approved pursuant to this chapter during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this chapter and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved, and a statement of the reasons for such actions; (5) a summary of evaluation findings prepared in accordance with subsection (a) of section 1458 of this title, and a description of any sanctions imposed under subsections (c) and (d) of section 312; (6) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 1456 of this title, are not consistent with an applicable approved state management program; (7) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (8) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (9) a summary of outstanding problems arising in the administration of this chapter in order of priority; (10) a description of the economic, environmental, and social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 1456a of this title in dealing with such consequences; (11) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; (12) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and (13) such other information as may be appropriate.

(b) Recommendations for legislation

The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary

deems necessary to achieve the objectives of this chapter and enhance its effective operation.

(c) Review of other Federal programs; report to Congress

(1) The Secretary shall conduct a systematic review of Federal programs, other than this chapter, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this chapter. Not later than 1 year after October 17, 1980, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this chapter identified as a result of such review.

(2) The Secretary shall promptly submit a report to the Congress consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.

(Pub. L. 89-454, title III, §316, formerly §313, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288, renumbered §316 and amended Pub. L. 94-370, §7, 13, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 96-464, §10, Oct. 17, 1980, 94 Stat. 2066; Pub. L. 102-587, §2205(b)(23), Nov. 4, 1992, 106 Stat. 5052.)

Termination Of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to transmittal to Congress of a biennial report summarizing the administration of this chapter, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 53 of House Document No. 103-7.

Shellfish Sanitation

Section 16 of Pub. L. 94-370 provided that:

“(a) The Secretary of Commerce shall—

“(1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and

“(2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

The Secretary of Commerce shall, not later than April 30, 1977, submit a report to the Congress of the findings, comments, and recommendations (if any) which result from such review and evaluation.

“(b) The Secretary of Health, Education, and Welfare [now Health and Human Services] shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977. At least 60 days prior to the promulgation of any such regulations, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Commerce, shall publish an analysis (1) of the economic impact of such regulations on the domestic shellfish industry, and (2) the cost of such national shellfish safety program relative to the benefits that it is expected to achieve.”

§1463. [CZMA §317]

Rules and regulations

The Secretary shall develop and promulgate, pursuant to section 553 of title 5, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 89-454, title III, §317, formerly §314, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288, and renumbered §317, Pub. L. 94-370, §7, July 26, 1976, 90 Stat. 1019.)

§1463a.

Omitted

Codification

Section, Pub. L. 96-464, Sec. 12(a)-(g), Oct. 17, 1980, 94 Stat. 2067; Pub. L. 98-620, title IV, Sec. 402(20), Nov. 8, 1984, 98 Stat. 3358, which required the Secretary of Commerce to submit to Congress any final rule promulgated pursuant to this chapter and provided procedures for Congressional disapproval of such rules was omitted pursuant to section 12(h) of Pub. L. 96-464, which provided that this section would cease to have any force or effect after Sept. 30, 1985.

§1463b.

National Coastal Resources Research and Development Institute

(a) Establishment by Secretary; administration

The Secretary of Commerce shall provide for the establishment of a National Coastal Resources Research and Development Institute

(hereinafter in this section referred to as the “Institute”) to be administered by the Oregon State Marine Science Center.

(b) Purposes of Institute

The Institute shall conduct research and carry out educational and demonstration projects designed to promote the efficient and responsible development of ocean and coastal resources, including arctic resources. Such projects shall be based on biological, geological, genetic, economic and other scientific research applicable to the purposes of this section and shall include studies on the economic diversification and environmental protection of the Nation’s coastal areas.

(c) Determination of Institute policies

(1) The policies of the Institute shall be determined by a Board of Governors composed of—

- (A) two representatives appointed by the Governor of Oregon;
- (B) one representative appointed by the Governor of Alaska;
- (C) one representative appointed by the Governor of Washington;
- (D) one representative appointed by the Governor of California; and
- (E) one representative appointed by the Governor of Hawaii.

(2) Such policies shall include the selection, on a nationally competitive basis, of the research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

(d) Establishment of Advisory Council; functions and composition

(1) The Board of Governors shall establish an Advisory Council composed of specialists in ocean and coastal resources from the academic community.

(2) To the maximum extent practicable, the Advisory Council shall be composed of such specialists from every coastal region of the Nation.

(3) The Advisory Council shall provide such advice to the Board of Governors as such Board shall request, including recommendations regarding the support of research, projects, and studies in accordance with the purposes of this section.

(e) Administration of Institute

The Institute shall be administered by a Director who shall be appointed by the Chancellor of the Oregon Board of Higher Education in consultation with the Board of Governors.

(f) Evaluation of Institute by Secretary

The Secretary of Commerce shall conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute under this section are used in a manner consistent with the provisions of this section.

(g) Report to Secretary

The Institute shall report to the Secretary of Commerce on its activities within 2 years after July 17, 1984.

(h) Access to Institute books, records and documents

The Comptroller General of the United States, and any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the Institute that are pertinent to the funds received under this section.

(i) Status of Institute employees

Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(j) Authorization of appropriations

For the purposes of this section, there are authorized to be appropriated in each fiscal year \$5,000,000, commencing with fiscal year 1985.

(Pub. L. 98-364, title II, §201, July 17, 1984, 98 Stat. 443.)

References In Text

This section, referred to in subsecs. (a) to (d), (f), (h) and (j), was in the original “this title”, meaning title II of Pub. L. 98-364, which enacted this section.

Codification

Section was not enacted as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

Termination Of Advisory Councils

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§1464. [CZMA §318]

Authorization of appropriations

(a) Sums appropriated to Secretary

There are authorized to be appropriated to the Secretary, to remain available until expended—

- (1) for grants under sections 306, 306A, and 309—
 - (A) \$47,600,000 for fiscal year 1997;
 - (B) \$49,000,000 for fiscal year 1998; and
 - (C) \$50,500,000 for fiscal year 1999; and
- (2) for grants under section 315—
 - (A) \$4,400,000 for fiscal year 1997;
 - (B) \$4,500,000 for fiscal year 1998; and
 - (C) \$4,600,000 for fiscal year 1999.

(b) Limitations

Federal funds received from other sources shall not be used to pay a coastal state’s share of costs under section 1455 or 1456b of this title.

(c) Reversion to Secretary of unobligated State funds; availability of funds

The amount of any grant, or portion of a grant, made to a State under any section of this chapter which is not obligated by such State during the fiscal year, or during the second fiscal year after the fiscal year, for which it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add such reverted amount to those funds available for grants under the section for such reverted amount was originally made available.

(Pub. L. 89-454, title III, §318, formerly §315, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1289, and amended Pub. L. 93-612, §1(3), Jan. 2, 1975, 88 Stat. 1974; renumbered §318 and amended Pub. L. 94-370, §7, 14, July 26, 1976, 90 Stat. 1019, 1031; Pub. L. 95-372, title V, §502, 503(e), (f), Sept. 18, 1978, 92 Stat. 692, 693; Pub. L. 96-464, §13, Oct. 17, 1980, 94 Stat. 2070; Pub. L. 99-272, title VI, §6046, Apr. 7, 1986, 100 Stat. 127; Pub. L. 99-626, §7, Nov. 7, 1986, 100 Stat. 3506; Pub. L. 101-508, title VI, §6215, Nov. 5, 1990, 104 Stat. 1388-313; Pub. L. 104-150, §4, June 3, 1996, 110 Stat. 1381.)

References In Text

This chapter, referred to in subsec. (c), was in the original “this Act” which was translated as reading “this title”, meaning title III of Pub. L. 89-454 which is classified generally to this chapter, to reflect the probable intent of Congress.

§1465. [CZMA §319]

Appeals to the Secretary

(a) Notice

Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 307, the Secretary shall publish an initial notice in the Federal Register.

(b) Closure of record

(1) In general

Not later than the end of the 160-day period beginning on the date of publication of an initial notice under subsection (a), except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

(2) Notice

After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.

(3) Exception

(A) In general

Subject to subparagraph (B), during the 160-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

- (i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

(ii) as the Secretary determines necessary to receive, on an expedited basis—

(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this Act; or

(II) any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency.

(B) Applicability

The Secretary may only stay the 160-day period described in paragraph (1) for a period not to exceed 60 days.

(c) Deadline for decision

(1) In general

Not later than 60 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

(2) Subsequent decision

Not later than 15 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 60-day period, the Secretary shall issue a decision.

(Pub. L. 89-454, title III, §319, as added Pub. L. 104-150, §8, June 3, 1996, 110 Stat. 1382; Pub. L. 109-58, title III, §381, Aug. 8, 2005, 119 Stat. 737.)

References In Text

This chapter, referred to in subsec. (b), originally read “this Act” meaning the Coastal Zone Management Act of 1972, Pub. L. 89-454, Title III, as added by Pub. L. 92-483, Oct. 27, 1972, 86 Stat. 1280, as amended, which is principally classified to

this chapter. For complete classification of the Act, see Short Title note set out under 42 U.S.C. §1451 and Tables.

§1466.

Appeals relating to offshore mineral development

For any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465), as amended by this Act, related to any Federal authorization for the permitting, approval, or other authorization of an energy project, the lead Federal permitting agency for the project shall, with the cooperation of Federal and State administrative agencies, maintain a consolidated record of all decisions made or actions taken by the lead agency or by another Federal or State administrative agency or officer. Such record shall be the initial record for appeals or reviews under that Act, provided that the record may be supplemented as expressly provided pursuant to section 319 of that Act.

(Pub. L. 109-58, title III, 382, Aug. 8, 2005, 119 Stat. 738.)

References In Text

This Act, referred to in text, is the Energy Policy Act of 2005, Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 594, which is principally classified to chapter 149 of Title 42, 42 U.S.C. §15801 et seq. For complete classification, see Short Title note set out under 42 U.S.C. §15801 and Tables.

That Act, referred to in text, probably means the Coastal Zone Management Act of 1972, Pub. L. 89-454, Title III, as added by Pub. L. 92-483, Oct. 27, 1972, 86 Stat. 1280, as amended, which is principally classified to this chapter. Section 319 of the Coastal Zone Management Act of 1972 is classified to 16 U.S.C. §1465. For complete classification, see Short Title note set out under 42 U.S.C. §1451 and Tables.

Codification

Section was enacted as part of the Energy Policy Act of 2005, and not as part of the Coastal Zone Management Act of 1972, which otherwise comprises this chapter.