

Appendix A

FEDERAL COASTAL ZONE MANAGEMENT ACT

(See Section 1456(a) through(I) regarding CZMA consistency provisions)



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## Coastal Zone Management Act of 1972

as amended through P.L. 104-150, The Coastal Zone Protection Act of 1996

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### **16 U.S.C. § 1451. Congressional findings (Section 302)**

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.

#### **16 U.S.C. § 1452. Congressional declaration of policy (Section 303)**

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, floodplains, 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.

#### **16 U.S.C. § 1453. Definitions (Section 304)**

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), 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. 1801 et seq.), 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) 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 1456a(b) of this title.

(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.

#### **16 U.S.C. § 1454. Management program development grants (Section 305)**

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.

#### **16 U.S.C. § 1455. Administrative grants (Section 306)**

(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 development 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 combination 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.

#### **16 U.S.C. § 1455a. Coastal resource improvement program (Section 306A)**

(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 1452(2)(A) through (K) of this title.

**(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 1455(d)(2)(C) of this title 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 1455(d)(2)(G) of this title.

**(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.

#### **16 U.S.C. § 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 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 restore 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. 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.

(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, 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, 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, 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, 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) of the Coastal Zone Management Act of 1972, as amended by this Act, 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;
- (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;
- (5)** the term "land use" includes a use of waters adjacent to coastal waters; and
- (6)** the term "Secretary" means the Secretary of Commerce.

**16 U.S.C. § 1456. Coordination and cooperation (Section 307)**

(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 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 assistance 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, or the Clean Air Act, as amended, 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 necessary 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 1456a of this title.

**16 U.S.C. § 1456a. Coastal Zone Management Fund (Section 308)**

## (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 1456(i)(3) of this title.

(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 chapter, 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 chapter 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.

(vi) Redesignated (v)

(3) Omitted

### 16 U.S.C. § 1456b. Coastal Zone Enhancement Grants (Section 309)

(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 1455 of this title, 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 1455 (e) of this title.

(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.

**16 U.S.C. § 1456c. Technical assistance (Section 310)**

(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 instrumentality 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.

**16 U.S.C. § 1457. Public hearings (Section 311)**

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.

**16 U.S.C. § 1458. Review of performance (Section 312)****(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.

**16 U.S.C. § 1459. Records and audit (Section 313)**

(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 November 5, 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 of this title, as in effect before November 5,

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.

**16 U.S.C. § 1460. Walter B. Jones Excellence in Coastal Zone Management Awards (Section 314)**

(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 chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title), 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 select 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 Secretary 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 chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title), 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.

**16 U.S.C. § 1461. National Estuarine Research Reserve System (Section 315)**

(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 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.

#### **16 U.S.C. § 1462. Coastal Zone Management Reports (Section 316)**

(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 action; (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 1458 of this title; (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.

**16 U.S.C. § 1463. Rules and Regulations (Section 317)**

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.

**16 U.S.C. § 1464. Authorization of appropriations (Section 318)**

(a) Sums appropriated to Secretary

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

**(1)** for grants under sections 1455, 1455a, and 1456b of this title--

- (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 1461 of this title--

- (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.

**16 U.S.C. § 1465. Appeals to the Secretary (Section 319)**

(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 1456 of this title, 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) of this section, 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 chapter; 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.

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