

**Calendar No. 211**

109TH CONGRESS }  
*1st Session*

SENATE

{ REPORT  
109-137

COASTAL ZONE ENHANCEMENT  
REAUTHORIZATION ACT OF 2005

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 360



SEPTEMBER 15, 2005.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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### COASTAL ZONE ENHANCEMENT REAUTHORIZATION ACT OF 2005

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Mr. STEVENS, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### R E P O R T

[To accompany S. 360]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 360) to amend the Coastal Zone Management Act, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

S. 360, the Coastal Zone Enhancement Reauthorization Act of 2005, as reported, would reauthorize the Coastal Zone Management Act (CZMA) of 1972. It would: streamline the processes under the CZMA for reviewing, approving, and appealing decisions on Federal actions in the coastal zone; establish new coastal community and nonpoint pollution reduction programs; authorize appropriations for fiscal years (FYs) 2006 through 2010; and make clarifying and technical changes throughout the Act.

#### BACKGROUND AND NEEDS

The United States has more than 95,000 miles of coastline, and the coastal zone is home to over half the nation's population. More than 3,600 people move to coastal areas each day, and an estimated 180 million people visit coastal areas annually. These tourists seek beaches, marinas, recreational fishing, and other coastal amenities, generating billions of dollars annually for coastal economies. At the same time, more than 360 seaports border the nation's shores that collectively handle \$700 billion in goods annually, and

this number is expected to double in the next two decades. Beyond urban and industrial areas, the coastline is also home to estuaries, sand dunes, salt marshes, and mangroves that serve as breeding and forage areas for fish, birds, and other animals as well as perform other functions such as natural water filtration and flood control.

The urban, industrial, and ecological features of the coastline present challenges to coastal zone managers in the nation's 30 coastal States and 5 Territories, each of which has jurisdiction over the management and development of coastal lands and ocean resources within 3 nautical miles of its coastline (for historical reasons, the ocean waters of Texas, the west coast of Florida, and Puerto Rico extend to 9 nautical miles). Each State develops laws and regulations for addressing its own coastal management issues. Typically, States allow local-level planning bodies to make decisions on coastal land use planning, zoning, infrastructure development, access, recreation, resource development and conservation, and other coastal issues, yet the cumulative effects of these independent decisions have impacts that extend to regional and national levels.

Certain coastal zone management issues have significant bearing on the national interest, especially regarding commerce, navigation, national security, power generation, and the use and protection of natural resources. Therefore, States should also consider the national interest when determining how and where to manage their coastal lands and resources, and Federal agencies need to work in partnership with State agencies to facilitate planning decisions that meet their common interest. To help meet these needs for coastal planning and management across the nation, Congress enacted the CZMA in 1972.

The CZMA provides incentives to States to develop comprehensive programs to balance the many competing uses of coastal resources and meet the needs for the future growth of coastal communities. As a voluntary program, the framework of the CZMA enables participating States to address multiple societal, cultural, economic, and environmental objectives, while providing States with flexibility to prioritize management issues and utilize existing State regulatory programs.

Once a State has finished writing its coastal management program plan, the State submits its plan to the National Oceanic and Atmospheric Administration's (NOAA) National Ocean Service for approval. Once a State program has received Federal approval, subsequent Federal actions, including the issuance of Outer Continental Shelf leasing licenses and other permits, are required to be consistent with the federally-approved State coastal policies. This is frequently referred to as the Federal consistency requirement. It is considered a primary incentive for States to join the voluntary national coastal management program because it allows States to review and address the impacts of Federal Government actions on coastal uses and resources.

The CZMA also provides financial assistance to States that have federally-approved coastal management programs through several grant programs. The four grant programs are Administration Grants (section 306), Resource Management Improvement Grants

(section 306A), Coastal Zone Management Fund (section 308), and Coastal Zone Enhancement Grant (section 309).

To date, 34 of the 35 eligible coastal States (with the exception of Illinois) and U.S. territories have federally-approved plans. The approved plans cover 99.9 percent of the eligible coastline of the United States.

Congress last reauthorized the CZMA in 1996 (Public Law 104-150). That reauthorization expired at the end of FY 1999. The U.S. Commission on Ocean Policy (Commission) recommended in its final report released in September, 2004, that this Act be reauthorized and strengthened. The Commission devoted significant attention to the issues that continue to challenge coastal zone managers around the nation, and its final report included several recommendations for improving coastal management. Overall, the Commission recommended increasing support to States for coastal plans and activities, improving regional coordination and assessment efforts, and increasing investment in coastal science, research, and technical support. Specifically related to the CZMA, the Commission recommended strengthening States' coordination abilities, increasing Federal support for community development, expanding investment in coastal habitat work, and supporting State coastal resource assessments.

The bill as reported is largely consistent with oral and written testimony provided to the Committee at its May 25, 2005, hearing on the implementation of the CZMA and issues related to its reauthorization, which was chaired by Senator Snowe. The Committee heard testimony from Dr. Thomas Kitsos of the National Oceanic and Atmospheric Administration, Dr. Walter Cruickshank of the U.S. Department of the Interior, Ms. Sarah W. Cooksey, representing the Coastal States Organization, Ms. Sarah Chasis of the Natural Resources Defense Council, Mr. Tom Fry, representing the National Ocean Industries Association, Dr. W. Donald Hudson, Jr., representing the Gulf of Maine Council on the Marine Environment, and Mr. Bill Jeffress of the Alaska Department of Natural Resources.

At this hearing, the Committee heard near-unanimous support for the CZMA and S. 360. The Coastal States Organization reiterated its support for S. 360, which was reinforced by letters from the States of Texas, South Carolina, Alabama, Virginia, California, Washington, Maine, Massachusetts, and Oregon. All other written testimony submitted for this hearing consists of documents in support of S. 360 from the National Estuarine Research Reserve Association, the American Planning Association, The Nature Conservancy, and a former Commissioner of the U.S. Commission on Ocean Policy. While not criticizing the language included in S. 360, at the hearing Mr. Fry and Mr. Jeffress expressed an interest in adding language that would further streamline the regulatory permitting and approval processes for offshore industries. Ms. Cooksey and Ms. Chasis expressed concern that any streamlining not impact opportunities for State comment or undermine the adequacy of the appeals record.

#### SUMMARY OF PROVISIONS

S. 360, as amended by a manager's amendment adopted at the Executive Session, would update the CZMA in response to evolving

State program needs, while preserving its voluntary, incentive-based nature and upholding the Federal consistency requirement. The key provisions of S. 360, as reported, include streamlining the processes for reviewing, approving, and appealing Federal actions in State waters; updating funding authorization levels for FYs 2006 through 2010; and creating a new Coastal Community Program targeting local planning and infrastructure needs, which includes a new funding mechanism for addressing non-point pollution control.

A significant change to the CZMA includes increased authorization levels. Within the last several years, the pace of coastal land use and development has placed increasing demands and costs on State coastal zone planning offices, and the funding needs of States have outpaced funds available through CZMA matching grant programs. Federal funding for CZMA programs has decreased from \$101.8 million in FY 2002 to \$91.8 million in FY 2005. For many States, the lack of sufficient funding has caused them to scale back coastal management program activities and reduce staff levels. Lack of funds has been a limiting factor in effectively implementing and monitoring their federally-approved coastal zone management plans and other Federal mandates aimed at reducing coastal water pollution.

Based on estimates of States' coastal management activities and projected costs over the next 5 years, the manager's amendment would authorize a total of \$125.5 million for CZMA grant programs in FY 2006, increasing to \$138 million in FY 2010. To meet States' goals for coastal science and education through National Estuarine Research Reserve sites and facilities, the manager's amendment would authorize \$37 million in FY 2006, increasing to \$41 million in FY 2010. For overall CZMA program administration at NOAA, this bill would authorize \$7.5 million in FY 2006, increasing to \$8.5 million in FY 2010.

In the last several years, many States have sought Federal support for establishing partnerships with and among local communities to encourage wise and sustainable development of their public resources. S. 360, as amended, would establish such a new program under section 309A, the Coastal Community Program. This program would increase Federal and State support of community-based activities to address the impact of development and sprawl on coastal resources. Eligible projects would include those to revitalize previously developed areas, undertake conservation activities and projects in undeveloped areas, emphasize water dependent uses, and protect coastal waters and habitats. Within the total grant authorization described above, the manager's amendment would authorize \$29 million for section 309A activities in FY 2006 and increase funding levels by \$1 million a year until funding reaches \$32 million in FYs 2009 and 2010.

In addition, many States currently conduct programs to mitigate nonpoint source pollution, or polluted runoff. Polluted runoff refers to rainfall and other water that travels over land—picking up significant amounts of oils, fertilizers, and other chemical pollutants—and is eventually discharged in coastal waters. Although many States use existing section 306, 306A, and 309 grants for nonpoint pollution reduction programs, it continues to be one of the most challenging issues facing coastal areas. Although no further policy

authorization is necessary for continuing these activities under the CZMA, S. 360 as amended would encourage States to take additional steps to address polluted runoff by directing specific funding to coastal polluted runoff programs through the Coastal Community Program. Each year, \$10 million or 35 percent of section 309A funding, whichever is less, would be made available for State-developed and community-based polluted runoff prevention and control activities. The funding would be used to assist coastal communities to coordinate and implement approved coastal nonpoint source pollution control strategies and measures.

To implement the consistency requirement of the CZMA, which grants coastal States authority to address the impacts of proposed Federal actions off their shores, NOAA has established procedures for reviewing, commenting on, and appealing Federal decisions. These processes often take more time than warranted. The committee examined the source of the delays and agreed to make three changes to streamline the Federal consistency processes.

First, the bill as amended would limit the comment period on Federal actions to 270 days (with a one-time 60 day stay, if requested by the parties or the Secretary of Commerce) and require that the Secretary of Commerce issue final decisions on appeals filed after the date of enactment of this Act within 90 days (only one 45 day extension is possible). For appeals filed before enactment of S. 360, the Secretary would have to close the record within 180 days of enactment, but no earlier than December 31, 2006, and issue the decision within 90 days of record closure. The intent of these provisions is to bring more predictability to the appeals process and ensure that the timeline will not be extended unreasonably. At the same time, it will allow enough time to compile all statutorily-required information that the Secretary of Commerce must consider, which will minimize the risk of subsequent litigation. The Committee based this language on timelines contained in NOAA's proposed rulemaking to revise the CZMA Federal Consistency Regulations, 68 Fed. Reg. 34851 (June 11, 2003), which the Administration developed in consultation with coastal States, ocean industries, and other interested stakeholders.

Second, the bill, as approved, would direct the Secretary of Commerce and the Commissioner of the Federal Energy Regulatory Commission (FERC) to prepare a memorandum of understanding on how they would coordinate their reviews and schedules of coastal energy activities. The intent of this is to prevent unnecessary delays in collecting information for an appeal.

Third, the bill also contains new language that would allow Alaska to apply the Federal consistency requirement only to a Federal action "inland of the coastal zone" that "directly and significantly affects" land, water, or natural resources in the coastal zone. In other words, Federal actions on Alaska's interior that do not directly and significantly affect the coastal zone would no longer be subject to State CZMA review. Alaska's coastal managers argued that the consistency requirement has been overly burdensome for many of their cases, thereby warranting this change. Nevertheless, other coastal States' coastal zone managers value the existing broad reach of the consistency authority, and the language of the provision reflects the Committee's intent that this language only apply to Alaska.

## LEGISLATIVE HISTORY

On February 10, 2005, Senator Snowe introduced S. 360, the Coastal Zone Enhancement Reauthorization of 2005, a bill to reauthorize the Coastal Zone Management Act of 1972. The bill, cosponsored by Senators Kerry, Sarbanes, Cantwell, DeWine, Levin, and Lautenberg, was referred to the Senate Committee on Commerce, Science, and Transportation. Senator Snowe chaired a full committee hearing on CZMA reauthorization issues and S. 360 on May 25, 2005, as described above.

On July 21, 2005, the Committee considered a manager's amendment to this bill. At this Executive Session, the Commerce Committee ordered S. 360 to be reported favorably as amended.

## ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 19, 2005.*

Hon. TED STEVENS,  
*Chairman, Committee on Commerce, Science, and Transportation,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 360, the Coastal Zone Enhancement Reauthorization Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*S. 360—Coastal Zone Enhancement Reauthorization Act of 2005*

Summary: S. 360 would amend the Coastal Zone Management Act of 1972 (CZMA), which governs federal and state environmental management of coastal areas. The bill would authorize appropriations for grants to state and local governments and other coastal zone management programs administered by the National Oceanic and Atmospheric Administration (NOAA).

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 360 would cost \$26 million in 2006 and \$643 million over the next five years. Enacting S. 360 could increase direct spending and revenues, but we estimate that any such increases would not exceed \$500,000 a year.

S. 360 contains no intergovernmental or private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA). The bill would benefit coastal states and local governments; any costs they incur would result from complying with conditions for receiving federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 360 is shown in the following table. The costs



of this legislation fall within budget function 300 (natural resources and environment).

		By Fiscal Year, in Millions of Dollars—					
		2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION							
Current law:							
Budget authority <sup>1</sup>	.....	124	0	0	0	0	0
Estimated outlays	.....	157	123	55	12	0	0
Proposed changes:							
Authorization level	.....	0	170	176	176	182	188
Estimated outlays	.....	0	26	103	157	176	181
Spending under S. 360:							
Authorization level <sup>1</sup>	.....	124	170	176	176	182	188
Estimated outlays	.....	157	149	158	169	176	181

<sup>1</sup> The 2005 level is the amount provided for that year to NOAA for coastal zone management activities.

Basis of Estimate: S. 360 would authorize the appropriation of \$892 million over the 2006–2010 period for the Secretary of Commerce to implement the CZMA. Under that act, NOAA provides grants and assistance to states and local governments to support efforts to conserve and enhance coastal resources and estuarine reserves. S. 360 would expand existing programs to allow grant recipients to use those funds to address emerging issues such as nonpoint pollution in coastal areas. The bill also would authorize new grants to assess and manage development in coastal communities. Based on historical spending patterns for activities under the CZMA, CBO estimates that implementing S. 360 would cost \$26 million in 2006 and \$643 million over the next five years. That estimate assumes that S. 360 will be enacted near the start of fiscal year 2006 and that funds will be provided as specified in the bill.

In addition, the bill would authorize the Secretary to accept and use donations from the public for projects to study and enhance estuarine resources. Such donations are recorded in the budget as revenues, and spending of the gifts would be considered new direct spending. Based on information from NOAA, CBO estimates that any increases in revenues and subsequent direct spending would be less than \$500,000 annually.

Intergovernmental and private-sector impact: S. 360 contains no intergovernmental or private-sector mandates as defined in UMRA. Much of the money authorized by the bill would fund grant programs that require matching contributions from participating governments. States would be able to allocate a portion of the grant funds received under the program to qualified local entities, including local governments, to further their coastal management programs. Any costs to those states, including matching funds, would result from complying with conditions for receiving federal assistance.

Estimate prepared by: Federal costs: Megan Carroll; impact on state, local, and tribal governments: Lisa Ramirez-Branum; impact on the private sector: Craig Cammarata.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

## REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

## NUMBER OF PERSONS COVERED

The reported bill would reauthorize the CZMA and amend it by streamlining the processes for gathering information and issuing appeals decisions; authorizing appropriations for FYs 2006 through 2010; and adding new funding initiatives on coastal community planning and nonpoint pollution reduction that participating States can access. It does not authorize any new regulations and, therefore, would not subject any individuals or businesses to new regulations.

## ECONOMIC IMPACT

The bill, as reported, provides authorization levels of \$170 million for FY 2006, \$175.8 million for FY 2007, \$176 million for FY 2008, \$182.3 million for FY 2009, and \$187.5 million for FY 2010 for NOAA to carry out the purposes of the bill. These funding levels are not expected to have an inflationary impact on the nation's economy.

## PRIVACY

This legislation would not have any adverse impact on the personal privacy of the individuals that would be impacted by this legislation.

## PAPERWORK

The reported bill would not increase paperwork requirements for the private sector. Those State, local, and non-governmental partners that volunteer to participate in CZMA programs and comment on proposed coastal zone activities would likely increase their written communications, data management, and technical expertise capacity related to coastal zone management.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title; table of contents*

This section provides the table of contents and the title of the bill, the Coastal Zone Enhancement Reauthorization Act of 2005 (CZER).

*Section 2. Amendment of Coastal Zone Management Act*

This section specifies that amendments and repeals in this bill apply to the Coastal Zone Management Act of 1972 (CZMA) (16 U.S.C. 1451 et seq.).

*Section 3. Findings*

This section amends section 302 of the CZMA (Findings) to reflect emerging issues, including the importance of Federal and State support of local community-based planning and strategies to address local problems. New findings include the need to increase local and State capacity to identify public infrastructure and open

space needs; the need to develop and implement plans that provide for sustainable growth; addressing resource protection and community revitalization; and supporting the National Estuarine Research Reserve System (NERRS) as a vehicle for coastal stewardship, research and development, training, education, and outreach.

#### *Section 4. Policy*

This section amends section 303 of the CZMA (Declarations of Policy) to include support for the NERRS and encourage the use of innovative technologies and techniques in the coastal zone for long-term coastal conservation. It includes specific support for improved coastal management decision-making, State-based conservation, monitoring, research, outreach, and education, and it places emphasis on cooperative and coordinated approaches to coastal management. It emphasizes the roles of State and local government in addressing habitat issues.

#### *Section 5. Changes in definitions*

This section amends section 304 of the CZMA (Definitions) to clarify the terms “estuarine reserve” and “coastal nonpoint pollution control program;” add a definition for “qualified local entity” for the new community-based initiative that includes regional and interstate agencies and non-profit organizations; clarify that “coastal State” no longer includes the trust territories of the Pacific Islands, which are now self-governing (i.e. the now-independent nation of Palau); expand the term “energy facilities” to include “use or reuse” of facilities authorized under the Outer Continental Shelf Lands Act for energy-related purposes or other authorized marine-related purposes; and expand the term “OCS energy activity” to include alternative energy sources, the reuse of facilities, and other energy related purposes. It adds incentives and guidelines to the definition of “special area management plans,” and defines the term “coastal nonpoint pollution control strategies and measures” as strategies and measures included as part of the coastal nonpoint pollution control program (16 U.S.C. 1455b).

#### *Section 6. Reauthorization of management program development grants*

This section amends section 305(a) of the CZMA to ensure that resources are available in FYs 2006 and 2007 to States without approved coastal management programs (i.e., Illinois) to facilitate completion of their program development. Such resources had been available to all other coastal States and territories as they developed their plans.

#### *Section 7. Reauthorization of administrative grants*

This section amends section 306(a) of the CZMA (Administrative Grants) to allow grants to cover implementation costs as well as administration costs, and it clarifies that all plans, strategies and measures, and all programmatic elements (including coastal nonpoint pollution control programs) are eligible for grants under this section. This section also specifies that the range of relative increase or decrease in funding for base programs for all States should be minimized. This is intended to provide for equitable dis-

tribution of funding for all States. This section also makes technical changes to the acquisition criteria in section 306(d)(10)(B).

*Section 8. Coastal resources improvement program*

This section amends section 306A of the CZMA (Coastal Resource Improvement Grants) by broadening the objectives for which the Secretary of Commerce may allocate funds, providing States with the option of allocating funds for creation, restoration, and preservation of coastal habitats, and for the continued implementation of the States' coastal nonpoint plans. This section makes technical changes to the guidelines for State matching funds and the allocation of the grants under 306 and 306A, and it stipulates that the Secretary provides assistance to States in identifying and obtaining technical and financial assistance from other Federal agencies.

*Section 9. Certain Federal agency activities*

This section directs that only "direct" and "significant" effects on "a land or water use or a natural resource of the Alaskan coastal zone" can be subject to State consistency review under section 307 (Coordination and Cooperation with Federal Agencies).

*Section 10. Coastal zone management fund*

This section amends section 308 of the CZMA (Coastal Zone Management Fund) to make loan repayments available to States from section 308(b)(2) grants to improve regional scale and watershed-based management approaches.

*Section 11. Coastal zone enhancement grants*

This section amends section 309 of the CZMA (Coastal Zone Enhancement Grants) by providing States with the option of allocating funds for the creation, restoration, and preservation of coastal habitats, explicitly including wetlands, coral reefs, marshes, and barrier islands. Funds may also be used for the continued implementation of the States' coastal nonpoint plans. This section adds a provision to allow coastal States, in consultation with the Secretary, to identify emerging coastal zone enhancement objectives. Section 11 removes outdated sections of subsection 309(d) and amends subsection 309(f) to eliminate the \$10 million cap on annual section 309 allocations to conform with increasing authorization levels. This section also removes provisions requiring the Secretary to evaluate State proposals based on pre-determined criteria and directs the Secretary to use funds allocated for section 306 (Administrative grants) and 306A (Coastal resource improvement program) for grants to States. This section also adds a provision supporting projects to improve ocean resource management and watershed management.

*Section 12. Coastal community program*

The Coastal Community Program creates a new grant option (section 309A) for States that want to focus on coastal community-based initiatives. This section describes the need for Federal and State support of community-based planning, strategies, and solutions to local sprawl and development issues in the coastal zone. This section allows the Secretary to make grants to States through the base program allocation formula and requires that the States

match the amount of the grant so that sections 306, 306A, and this section, in aggregate, equal a 1:1 match. The Coastal Community Program is intended to revitalize previously developed areas, promote conservation projects in environmentally sensitive areas, emphasize water dependent uses, and protect coastal habitats.

*Section 13. Technical assistance*

This section amends section 310 of the CZMA (Technical Assistance) to expand the scope and change the title of the section to “Technical Assistance, Resource Assessments, and Information Systems.” Amendments in this section allow the Secretary to conduct a cooperative program to develop and apply innovative coastal and estuarine environmental technology and management practices, including information transfer, training, and technical assistance and support. This section also establishes regional advisory committees to advise NOAA on these programs. These committees will identify research, technical assistance, and information needs and priorities for these programs and will provide consultation and guidance for the development of coastal information and resource assessment programs in each coastal State or territory. The committees are exempt from the Federal Advisory Committee Act requirements and include representatives from relevant State Governors, scientific and academic institutions, Sea Grant programs, and the private and public sector. This section also directs the Secretary to assist coastal States in identifying and obtaining financial and technical assistance from other Federal agencies.

*Section 14. Performance review*

This section amends section 312(a) of the CZMA (Performance Review), by adding coordination with the National Estuarine Research Reserve System to the performance review process and by changing the frequency and focus of the reviews. Reviews are changed from “continuing reviews of performance” to periodic review of administration and implementation, in addition to review of performance, at least once every five years. Reviews are to indicate whether each Coastal Zone Management Plan is consistent with the national coastal policies and objectives in sections 303(2)(A) through (K).

*Section 15. Walter B. Jones award*

This section amends section 314 of the CZMA to allow the Secretary the discretion to issue the Walter B. Jones Awards if funds are available and specifies the form these awards may take.

*Section 16. National Estuarine Research Reserve System*

This section amends section 315 of the CZMA to clarify and strengthen the National Estuarine Research Reserve System (NERRS). A majority of the amendments are changes to include training, education, monitoring, research and stewardship concepts as well as the development of improved coastal management methods and practices. This section clarifies the NERRS description and allows the Secretary to enter into contracts and agreements with non-profit organizations to carry out projects that support reserves and to accept donations of funds or services for projects consistent with the purposes of section 315. This section also specifies that re-

search goals in NERRS reserves should be appropriate for each coastal State or territory.

*Section 17. Coastal zone management reports*

This section amends section 316 of the CZMA to clarify the requirements for the reports to Congress and to require a report to be provided to Congress on Federal agency coordination and cooperation in coastal management.

*Section 18. Authorization of appropriations*

This section amends section 318, Authorization of Appropriations, to authorize CZMA funding. For 306 and 306A, authorization is provided at \$90.5 million in FY 2006, \$94 million for FY 2007, \$98 million for FY 2008, and increasing by \$4 million annually until FY 2010. For the voluntary 309A community initiative grants, \$29 million is authorized for FY 2006, increasing annually in \$1 million increments until FY 2009 and FY 2010. Of the section 309A funds, \$10 million or 35 percent, whichever is less, shall be set aside for existing nonpoint pollution control programs. For 315 grants (NERRS), authorization is provided at \$37 million in FY 2006, increasing annually in \$1 million increments until FY 2010. Within these section 315 levels, \$15 million is authorized annually between FY 2006 and FY 2010 for grants to fund construction projects at estuarine reserves designated under section 315. \$7.5 million is authorized for administrative costs in FY 2006, increasing to \$8.5 million in FY 2010. For FY 2006 and FY 2007, \$6 million is authorized for section 310 grants to support State pilot projects to implement resource assessment and information programs. This section also clarifies that NOAA shall only utilize funds appropriated for section 306 for grants and not for any other program, administrative, or overhead costs.

*Section 19. Deadline for decision on appeals of consistency determination*

This section adds deadlines for decisions on appeals to the Secretary of consistency determinations under section 307 (Coordination and Cooperation with Federal Agencies). For appeals filed after the date of enactment of this Act, these deadlines close the record after 270 days (with an opportunity for a one-time 60 day stay) and require a decision 90 days after the record closes. The deadline for decisions could be extended one time by the Secretary of Commerce, for a period of up to 45 days. For appeals filed before the date of enactment of this Act, the Secretary has up to 180 days from the date of enactment (but no earlier than December 31, 2006) to close the record. A decision would be required no later than 90 days after the record closes.

*Section 20. Coordination with FERC*

This section directs the Secretary of Commerce to report on the development of a memorandum of understanding with the Commissioner of the Federal Energy Regulatory Commission (FERC) regarding improved coordination and streamlining of the CZMA and FERC review processes.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

## COASTAL ZONE MANAGEMENT ACT OF 1972

## SEC. 302. CONGRESSIONAL FINDINGS.

[16 U.S.C. 1451]

The Congress finds that—

[(a)] (1) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

[(b)] (2) 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)] (3) 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, *ports*, 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)] (4) The habitat areas of the coastal zone, *including coastal waters and wetlands*, and the fish, shellfish, other living marine resources, and wildlife [therein,] *dependent on that habitat*, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

[(e)] (5) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the [well-being] *qualify of life* of all citizens are being irretrievably damaged or lost.

[(f)] (6) 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)] (7) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

[(h)] (8) 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)] (9) 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 *integrated plans and strategies*, unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

[(j)] (10) 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. ]

(11) *Land and water uses in the coastal zone and coastal watersheds may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from activities in these areas must be improved.*

[(l)] (12) 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)] (13) 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.

(14) *There is a need to enhance cooperation and coordination among states and local communities, to encourage local community-based solutions that address the impacts and pressures on coastal resources and on public facilities and public service caused by continued coastal demands, and to increase state and local capacity to identify public infrastructure and open space needs and develop and implement plans which provide for sustainable growth, resource protection and community revitalization.*

(15) *The establishment of a national system of estuarine research reserves will provide for protection of essential estuarine resources, as well as for a network of State-based reserves that will serve as sites for coastal stewardship best-practices, monitoring, research, education, and training to improve coastal management and to help translate science and inform coastal decisionmakers and the public.*

### SEC. 303. CONGRESSIONAL DECLARATION OF POLICY.

[16 U.S.C. 1452]

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] *state and local governments* to exercise effectively their responsibilities in the coastal zone through the development and implementation of management [programs] *programs, plans, and strategies* 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,]** *waters and habitats*, and to protect natural resources and existing uses of those **[waters,]** *waters and habitats*,

(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]** *and wildlife management, 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]** *specificity, co-*

*operation, coordination, and effectiveness* 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 decision-making;

(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 title;

(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, *other countries*, 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.] zone**;

(7) *to create and use a National Estuarine Research Reserve System as a Federal, state, and community partnership to support and enhance coastal management and stewardship through State-based conservation, monitoring, research, education, outreach, and training; and*

(8) *to encourage the development, application, training, technical assistance, and transfer of innovative coastal management practices and coastal and estuarine environmental technologies and techniques to improve understanding and management decisionmaking for the long-term conservation of coastal ecosystems.*

#### SEC. 304. DEFINITIONS.

[16 U.S.C. 1453]

For the purposes of this title—

(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. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which

have a direct and significant impact on the coastal waters, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

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

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

(4) The term “coastal state” means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, [and the Trust Territories of the Pacific Islands,] and American Samoa.

(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 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(10)). 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 in-

volved 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; (ix) *use or reuse of facilities authorized under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) for energy-related purposes or other authorized marine related purposes*; [and (ix)] and (x) 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.]

(8) *The terms “estuarine reserve” and “estuarine research reserve” mean a coastal protected area that—*

*(A) may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to the estuary;*

*(B) constitutes to the extent feasible a natural unit; and*

*(C) is established to provide long-term opportunities for conducting scientific studies and monitoring and educational and training programs that improve the understanding, stewardship, and management of estuaries and improve coastal decisionmaking.*

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

(10) The term “land use” means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 307(g).

(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 title, setting forth objectives, policies, *plans*, *strategies*, 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 or *alternative energy sources on or from* the outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))), or the siting, construction, expansion, or operation of any [new or expanded] *new, reused, or expanded* energy facilities directly required by such exploration, development, [or production.] *production, or other energy related purposes.*

(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] *policies, standards, incentives, guidelines*, 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.

(19) *The term “coastal nonpoint pollution control strategies and measures” means strategies and measures included as part of the coastal nonpoint pollution control program under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b).*

(20) *The term “qualified local entity” means—*

*(A) any local government;*

*(B) any areawide agency referred to in section 204(a)(1) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334 (a)(1));*

- (C) any regional agency;
- (D) any interstate agency;
- (E) any nonprofit organization; or
- (F) any reserve established under section 315.

**[SEC. 305. SUBMITTAL OF STATE PROGRAM FOR APPROVAL.]**

[16 U.S.C. 1454]

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 306.]

**SEC. 305. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.**

(a) *STATES WITHOUT PROGRAMS.*—In fiscal years 2006 and 2007, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed \$200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state under this subsection, no subsequent grant may be made to that coastal state under this subsection unless the Secretary finds that the coastal state is satisfactorily developing its management program. No coastal state is eligible to receive more than 4 grants under this subsection.

(b) *SUBMITTAL OF PROGRAM FOR APPROVAL.*—A coastal state that has completed the development of its management program shall submit the program to the Secretary for review and approval under section 306.

**SEC. 306. ADMINISTRATIVE GRANTS.**

[16 U.S.C. 1455]

(a) *AUTHORIZATION; MATCHING FUNDS.*—The Secretary may make grants to any coastal state for the purpose of [administering that state's management program,] *administering and implementing that State's management program and any plans, projects, or activities developed pursuant to such program, including developing and implementing applicable coastal nonpoint pollution control program components*, 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 enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 1 to 1 for any fiscal year.

(2) For programs approved after enactment of the Coastal Zone Act Reauthorization Amendments of 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) only if the Secretary finds that the management program of the coastal state meets all applicable requirements of this title and has been approved in accordance with subsection (d).

(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. *In promoting equity, the Secretary shall consider the overall change in grant funding under this section from the preceding fiscal year and minimize the relative increases or decreases among all the eligible States. To the extent practicable, the Secretary shall ensure that each eligible State receives increased funding under this section in any fiscal year for which the total amount appropriated to carry out this section is greater than the total amount appropriated to carry out this section for the preceding fiscal year.*

(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 title and is consistent with the policy declared in section 303.

(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 users 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 title; 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] *other* 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 *policies, plans, strategies*, 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 6217 of the Coastal Zone Act Reauthorization Amendments of 1990.

(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 307.

#### **SEC. 306A. COASTAL RESOURCE IMPROVEMENT PROGRAM.**

[16 U.S.C. 1455a]

(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 306; and

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

(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 306(d)(9) *or other important coastal habitats* 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 *or historic* waterfronts and ports that are designated in the state's management program pursuant to section 306(d)(2)(C) as areas of particular concern.

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

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

(5) *The coordination and implementation of approved coastal nonpoint pollution control plans, strategies, and measures.*

(6) *The preservation, restoration, enhancement or creation of coastal habitats.*

(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)—

(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 construc-

tion projects subject to the limitations in paragraph (B);

(D) *planning, 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.] *section;*

(F) *work, resources, or technical support necessary to preserve, restore, enhance, or create coastal habitats; and*

(G) *the coordination and implementation of approved coastal nonpoint pollution control plans, strategies, measures.*

[(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 204 of the Demonstration Cities and Metropolitan Development Act of 1966, 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.]

(d) *SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—*

(1) *IN GENERAL.—If a coastal state chooses to fund a project under this section, then—*

*(A) it shall submit to the Secretary a combined application for grants under this section and section 306;*

*(B) it shall match the combined amount of such grants in the ratio required by section 306(a) for grants under that section; and*

*(C) the Federal funding for the project shall be a portion of that state’s annual allocation under section 306(a).*

(2) *USE OF FUNDS.*—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.

(e) *ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.*—With the approval of the Secretary, the eligible coastal state may allocate to a qualified local entity 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 and consistent with the policies of this Act.

(f) *ASSISTANCE.*—The Secretary shall assist eligible coastal states in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (b).

#### **SEC. 307. COORDINATION AND COOPERATION.**

[16 U.S.C. 1456]

(a) *FEDERAL AGENCIES.*—In carrying out his functions and responsibilities under this title, 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 306 unless the views of Federal agencies principally affected by such program have been adequately considered.

(c) *CONSISTENCY OF FEDERAL ACTIVITIES WITH STATE MANAGEMENT PROGRAMS; 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, United States Code, 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) 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 306(d)(6) 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.

*(D) The provisions of paragraph (1)(A), and implementing regulations thereunder, with respect to a Federal agency activity inland of the coastal zone of the State of Alaska, apply only if the activity directly and significantly affects a land or water use or a natural resource of the Alaskan coastal zone.*

(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 title 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 306, 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 re-

source 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 title 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) APPLICATIONS 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 re-

source 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 title IV of the Inter-governmental Coordination Act of 1968 (82 Stat. 1098). 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 title or necessary in the interest of national security.

(e) CONSTRUCTION WITH OTHER LAWS.—Nothing in this title 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 title, nothing in this title 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 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 title 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 306 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 305; or

(2) in the administration of a management program approved under section 306; 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) **FEDERAL FEE.**—

(1) With respect to appeals under subsections (c)(3) and (d) which are submitted after the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 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).

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

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

**SEC. 308. COASTAL ZONE MANAGEMENT FUND.**

[16 U.S.C. 1456a]

(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 the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, and any repayment schedule established pursuant to this title as in effect before that date of enactment, are not altered by any provision of this title. 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).]

*(2) Loan repayments made under this subsection shall be retained by the Secretary and deposited into the Coastal Zone Management Fund established under subsection (b) and shall be made available to the States for grants as under subsection (b)(2).*

(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) and fees deposited into the Fund under section 307(i)(3).

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

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

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

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

[(B) After use under subparagraph (A)—

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

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

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

[(iv) appropriate awards recognizing excellence in coastal zone management as provided in section 314; 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 306.

[(3) [Omitted]]

*(2) Subject to appropriation Acts, amounts in the Fund shall be available to the Secretary to make grants to the States for—*

*(A) projects to address coastal and ocean management issues which are regional in scope, including intrastate and interstate projects; and*

*(B) projects that have high potential for improving coastal zone and watershed management.*

*(3) Projects funded under this subsection shall apply an integrated, watershed-based management approach and advance the purpose of this Act to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation’s coastal zone for this and succeeding generations.*

#### **SEC. 309. COASTAL ZONE ENHANCEMENT GRANTS.**

[16 U.S.C. 1456b]

(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.]

*(1) Protection, restoration, enhancement, or creation of coastal habitats, including wetlands, coral reefs, marshes, and barrier islands.*

(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 *and removal* 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.] *of various individual uses or activities on coastal waters, habitats, and resources, including sources of polluted runoff.*

(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.

(10) *Development and enhancement of coastal nonpoint pollution control program components, strategies, and measures, including the satisfaction of conditions placed on such programs as part of the Secretary's approval of the programs.*

(11) *Significant emerging coastal issues as identified by coastal states, in consultation with the Secretary and qualified local entities.*

(b) LIMITS ON GRANTS.—

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

(2)(A) In addition to any amounts provided under section 306, and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program [changes] *changes, or for projects that demonstrate significant potential for improving ocean resource management or integrated coastal and watershed management at the local, state, or regional level, approved by the Secretary in accordance with section 306(e).*

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

(c) EVALUATION OF STATE PROPOSALS BY SECRETARY.—The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those [proposals,

taking into account the criteria established by the Secretary under subsection (d).] *proposals*. 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 the date of enactment of this section, and consistent with the notice and participation requirements established in section 317, 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)] (d) 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)] (e) FUNDING.—Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement sections 306 and 306A of this title shall be retained by the Secretary for use [in implementing this section, up to a maximum of \$10,000,000 annually.] *for grants to the States.*

[(g)] (f) 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.

#### **SEC. 309A. COASTAL COMMUNITY PROGRAM.**

(a) COASTAL COMMUNITY GRANTS.—*The Secretary may make grants to any coastal state that is eligible under subsection (b)—*

*(1) to assist coastal communities in assessing and managing growth, public infrastructure, and open space needs in order to provide for sustainable growth, resource protection and community revitalization;*

*(2) to provide management-oriented research and technical assistance in developing and implementing community-based growth management and resource protection strategies in qualified local entities as long as such strategies are consistent with the policies of this Act;*

*(3) to fund demonstration projects which have high potential for improving coastal zone management at the local level;*

*(4) to assist in the adoption of plans, strategies, policies, or procedures to support local community-based environmentally-protective solutions to the impacts and pressures on coastal uses and resources caused by development and sprawl that will—*

*(A) revitalize previously developed areas;*

- (B) undertake conservation activities and projects in undeveloped and environmentally sensitive areas;
- (C) emphasize water-dependent uses; and
- (D) protect coastal waters and habitats; and
- (5) to assist coastal communities to coordinate and implement approved coastal nonpoint pollution control strategies and measures that reduce the causes and impacts of polluted runoff on coastal waters and habitats.”.
- (b) *ELIGIBILITY.*—To be eligible for a grant under this section for a fiscal year, a coastal state shall—
  - (1) have a management program approved under section 306; and
  - (2) in the judgment of the Secretary, be making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in subparagraphs (A) through (K) of section 303(2).
- (c) *ALLOCATIONS; SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.*—
  - (1) *ALLOCATION.*—Grants under this section shall be allocated to coastal states as provided in section 306(c).
  - (2) *APPLICATION; MATCHING.*—If a coastal state chooses to fund a project under this section, then—
    - (A) it shall submit to the Secretary a combined application for grants under this section and section 306; and
    - (B) it shall match the amount of the grant under this section on the basis of a total contribution of section 306, 306A, and this section so that, in aggregate, the match is 1:1.
- (d) *ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.*—
  - (1) *IN GENERAL.*—With the approval of the Secretary, the eligible coastal state may allocate to a qualified local entity amounts received by the state under this section.
  - (2) *ASSURANCES.*—A coastal state shall ensure that amounts allocated by the state under paragraph (1) are used by the qualified local entity in furtherance of the state’s approved management program, specifically furtherance of the coastal management objectives specified in section 303(2) and the policies of this Act.
- (e) *ASSISTANCE.*—The Secretary shall assist eligible coastal states and qualified local entities in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (a).

**[SEC. 310. TECHNICAL ASSISTANCE.]**

**SEC. 310. TECHNICAL ASSISTANCE, RESOURCES ASSESSMENTS, AND INFORMATION SYSTEMS.**

[16 U.S.C. 1456c]

(a)(1) The Secretary shall conduct a program of technical [assistance] assistance, technology and methodology development, training and information transfer, resources assessment, and management-oriented research necessary to support the development and implementation of State coastal management program amendments under section 309, and appropriate to the furtherance of international cooperative efforts and technical assistance in coastal zone management.

(2) 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~~ *research activities, and other support services and activities* under this section with any other such activities that are conducted by or subject to the authority of the Secretary. *The Secretary may conduct a program to develop and apply innovative coastal and estuarine environmental technology and methodology through a cooperative program, and to support the development, application, training and technical assistance, and transfer of effective coastal management practices. The Secretary may make extramural grants in carrying out the purpose of this subsection.*

(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. *The Secretary shall establish regional advisory committees including representatives of the Governors of each state within the region, universities, colleges, coastal and marine laboratories, Sea Grant College programs within the region and representatives from the private and public sector with relevant expertise. The Secretary will report to the regional advisory committees on activities undertaken by the Secretary and other agencies pursuant to this section, and the regional advisory committees shall identify research, technical assistance and information needs and priorities. The regional advisory committees are not subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).*

(c)(1) *The Secretary shall consult with the regional advisory committees concerning the development of a coastal resources assessment and information program to support development and maintenance of integrated coastal resource assessments of state natural, cultural and economic attributes, and coastal information programs for the collection and dissemination of data and information, product development, and outreach based on the needs and priorities of coastal and ocean managers and user groups.*

(2) *The Secretary shall assist coastal states in identifying and obtaining financial and technical assistance from other Federal agencies and may make grants to states in carrying out the purpose of this section and to provide ongoing support for state resource assessment and information programs.*

\* \* \* \* \*

**SEC. 312. REVIEW OF PERFORMANCE.**

[16 U.S.C. 1458]

(a) **EVALUATION OF ADHERENCE WITH TERMS OF GRANTS.**—The Secretary shall conduct a **continuing review of the performance** *periodic review, no less frequently than every 5 years, of the administration, implementation, and performance* of coastal states with respect to coastal **management.** *management programs.* Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state **has implemented and enforced** *has effectively administered, implemented, and enforced* the program approved by the Secretary, **addressed the coastal management needs identified** *furthered the national coastal policies and objectives set forth* in section 303(2)(A) through (K), *coordinated with National Estuarine Research Reserves in the state,* and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

(b) **PUBLIC PARTICIPATION.**—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 title, 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 315 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 title.

(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 FROM 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 title 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).

(e) NOTICE AND HEARING.—Management program approval and financial assistance may not be withdrawn under subsection (d), 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), 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.

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#### SEC. 314. WALTER B. JONES EXCELLENCE IN COASTAL ZONE MANAGEMENT AWARDS.

[16 U.S.C. 1460]

(a) ESTABLISHMENT.—The Secretary [shall, using sums in the Coastal Zone Management Fund established under section 308] *may, using sums available under this Act and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315), implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the [field.] field of coastal zone management. These awards, to be known as the “Walter B. Jones Awards”, may include—*

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

(b) ANNUAL SELECTION OF RECIPIENTS.—The Secretary [shall elect annually—] *may select annually if funds are available under subsection (a)—*

- (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 title; 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) 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) the Sec-



retary 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 308 and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315), the Secretary shall establish and execute appropriate awards, to be known as the “Walter B. Jones Awards”, including—

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

#### SEC. 315. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

[16 U.S.C. 1461]

(a) ESTABLISHMENT OF THE 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 the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and
- (2) each estuarine area designated as a national estuarine reserve under subsection (b). Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

(b) DESIGNATION OF NATIONAL ESTUARINE RESERVES.—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, 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] *education, interpretation, training, and demonstration projects; 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] *RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP* GUIDELINES.—The Secretary shall develop guidelines for the [conduct of research] *conduct of research, education, and resource stewardship* 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] *coordinated research, education, and resource stewardship* within the System;
- (2) the establishment of common [research] principles and objectives to guide the development of [research programs] *re-*

*search, education, and resource stewardship programs* within the System;

(3) the identification of uniform [research] methodologies which will ensure comparability of [data,] *information*, the broadest application of [research] results, and the maximum use of the System for [research purposes;] *research, education, and resource stewardship purposes*;

(4) the establishment of performance standards upon which the effectiveness of the [research efforts] *research, education, and resource stewardship 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] *research, education, and resource stewardship* than the funds authorized under this Act, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d). 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.—] **ESTUARINE RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP.**—The Secretary shall take such action as is necessary to promote and coordinate the use of the System for [research purposes] *research, education, and resource stewardship 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]

(1) *giving reasonable priority to research, education, and stewardship activities that use the System in conducting or supporting activities relating to estuaries;*

(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.] *research, education, and resource stewardship activities; and*

“(3) *establishing partnerships with other Federal and state estuarine management programs to coordinate and collaborate on 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,] *reserve; and*

(ii) for purposes of operating or managing a national estuarine reserve [and constructing appropriate reserve facilities, or] *including resource stewardship activities and constructing reserve facilities; and*

[(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).】

(B) *to any coastal state or public or private person for purposes of—*

*(i) supporting research and monitoring associated with a national estuarine reserve that are consistent with the research guidelines developed under subsection (c); or*

*(ii) conducting educational, interpretive, or training activities for a national estuarine reserve that are consistent with the education guidelines developed under subsection (c).*

(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.】 *therein. Non-Federal costs associated with the purchase of any lands and waters, or interests therein, which are incorporated into the boundaries of a reserve up to 5 years after the costs are incurred, may be used to match the Federal share.*

(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)】 *paragraph (1)(B)* may be up to 100 percent of any costs for activities that benefit the 【entire System.】 *System as a whole.*

(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.

(4) *The Secretary may—*

*(A) enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with any non-profit organization, authorizing the organization to solicit donations to carry out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section; and*

*(B) accept donations of funds and services for use in carrying out the purposes and policies of this section, other than general administration of reserves or the System and*

*which are consistent with the purposes and policies of this section.*

*Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States for the purpose of carrying out this section.*

(f) EVALUATION OF SYSTEM PERFORMANCE.—

(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including *coordination with other state programs established under sections 306 and 309A*, 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), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) 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) 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).

(g) REPORT.—The Secretary shall include in the report required under section 316 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).

**SEC. 316. COASTAL ZONE MANAGEMENT REPORTS.**

[16 U.S.C. 1462]

(a) BIENNIAL REPORTS.—The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit [to the President for transmittal] to the Congress a report summarizing the administration of this title 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 title during the preceding Federal fiscal year and a description of those programs;

(2) a listing of the states participating in the provisions of this title 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 312, and a description of any sanctions imposed under subsections (c) and (d) of section 312;

(6) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, 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 title 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 308 in dealing with such consequences;] zone;

(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, education, 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) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

(c) REVIEW OF OTHER FEDERAL PROGRAMS; REPORT TO CONGRESS.—

(1) The [Secretary] *Secretary, in consultation with coastal states, and with the participation of affected Federal agencies,* shall conduct a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this title. [Not later than 1 year after the date of the enactment of this subsection, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this title identified as a result of such review.] *The Secretary, in conducting such a review, shall coordinate with, and obtain the views of, appropriate Federal agencies.*

(2) The Secretary [shall promptly] *shall, within 4 years after the date of enactment of the Coastal Zone Enhancement Reauthorization Act of 2005,* 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. *If*

*sufficient funds and resources are not available to conduct such a review, the Secretary shall so notify the Congress.*

\* \* \* \* \*

# **SEC. 318. AUTHORIZATION OF APPROPRIATIONS.**

[16 U.S.C. 1464]

(a) SUMS APPROPRIATED TO SECRETARY.—There are authorized to be appropriated to the Secretary, to remain available until expended—

[(1) for grants under sections 306, 306A, and 309—

[(A) \$47,600,000 for fiscal year 1997;

[(B) \$49,000,000 for fiscal year 1998; and

[(C) \$50,500,000 for fiscal year 1999; and

[(2) for grants under section 315—

[(A) \$4,400,000 for fiscal year 1997;

[(B) \$4,500,000 for fiscal year 1998; and

[(C) \$4,600,000 for fiscal year 1999.]]

“(1) for grants under sections 306, 306A, and 309—

“(A) \$90,500,000 for fiscal year 2006,

“(B) \$94,000,000 for fiscal year 2007,

“(C) \$98,000,000 for fiscal year 2008,

“(D) \$102,000,000 for fiscal year 2009, and

“(E) \$106,000,000 for fiscal year 2010;

“(2) for grants under section 309A—

“(A) \$29,000,000 for fiscal year 2006,

“(B) \$30,000,000 for fiscal year 2007,

“(C) \$31,000,000 for fiscal year 2008,

“(D) \$32,000,000 for fiscal year 2009, and

“(E) \$32,000,000 for fiscal year 2010,

*of which \$10,000,000, or 35 percent, whichever is less, shall be for purposes set forth in section 309A(a)(5);*

“(3) for grants under section 315—

“(A) \$37,000,000 for fiscal year 2006,

“(B) \$38,000,000 for fiscal year 2007,

“(C) \$39,000,000 for fiscal year 2008,

“(D) \$40,000,000 for fiscal year 2009, and

“(E) \$41,000,000 for fiscal year 2010,

*of which up to \$15,000,000 may be used by the Secretary in each of fiscal years 2006 through 2010 for grants to fund construction and acquisition projects at estuarine reserves designated under section 315;*

“(4) for costs associated with administering this title, \$7,500,000 for fiscal year 2006, \$7,750,000 for fiscal year 2007, \$8,000,000 for fiscal year 2008, \$8,250,000, for fiscal year 2009, and \$8,500,000 for fiscal year 2010; and

“(5) for grants under section 310 to support State pilot projects to implement resource assessment and information programs, \$6,000,000 for each of fiscal years 2006 and 2007.

(b) LIMITATIONS.—Federal funds received from other sources shall not be used to pay a coastal state’s share of costs under section [306 or 309.] 306.

(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 Act which is not

obligated by such State [during the fiscal year, or during the second fiscal year after the fiscal year, for which] *within 3 years from when 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.] to states under this Act.*

(d) *PURCHASE OF OTHERWISE UNAVAILABLE FEDERAL PRODUCTS AND SERVICES.—Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.*

(e) *RESTRICTIONS ON USE OF AMOUNTS.—Except for funds appropriated under subsection (a)(4), amounts appropriated under this section shall be available only for grants to States and shall not be available for other program, administrative, or overhead costs of the National Oceanic and Atmospheric Administration or the Department of Commerce.*

**[SEC. 319. APPEALS TO THE SECRETARY.]**

[16 U.S.C. 1465]

[(a) NOTICE.—The Secretary shall publish in the Federal Register a notice indicating when the decision record has been closed on any appeal to the Secretary taken from a consistency determination under section 307(c) or (d). No later than 90 days after the date of publication of this notice, the Secretary shall—

[(1) issue a final decision in the appeal; or

[(2) publish a notice in the Federal Register detailing why a decision cannot be issued within the 90-day period.

[(b) DEADLINE.—In the case where the Secretary publishes a notice under subsection (a)(2), the Secretary shall issue a decision in any appeal filed under section 307 no later than 45 days after the date of the publication of the notice.

[(c) APPLICATION.—This section applies to appeals initiated by the Secretary and appeals filed by an applicant.]

**“SEC. 319. APPEALS TO THE SECRETARY.**

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

*“(b) CLOSURE OF RECORD.—*

*“(1) IN GENERAL.—Not later than the end of the 270-day period beginning on the date of publication of an initial notice under subsection (a), except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.*

*“(2) NOTICE.—After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.*

*“(3) EXCEPTION.—*

*“(A) IN GENERAL.—Subject to subparagraph (B), during the 270-day period described in paragraph (1), the Secretary may stay the closing of the decision record—*

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

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

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

*“(II) any clarifying information submitted by a party to the proceeding related to information already existing in the sole record.*

*“(B) APPLICABILITY.—The Secretary may only stay the 270-day period described in paragraph (1) once and for a period not to exceed 60 days.*

*“(c) DEADLINE FOR DECISION.—*

*“(1) IN GENERAL.—Not later than 90 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 45 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 90-day period, the Secretary shall issue a decision.*

