

Public Support for Coastal Zone Management Programs:

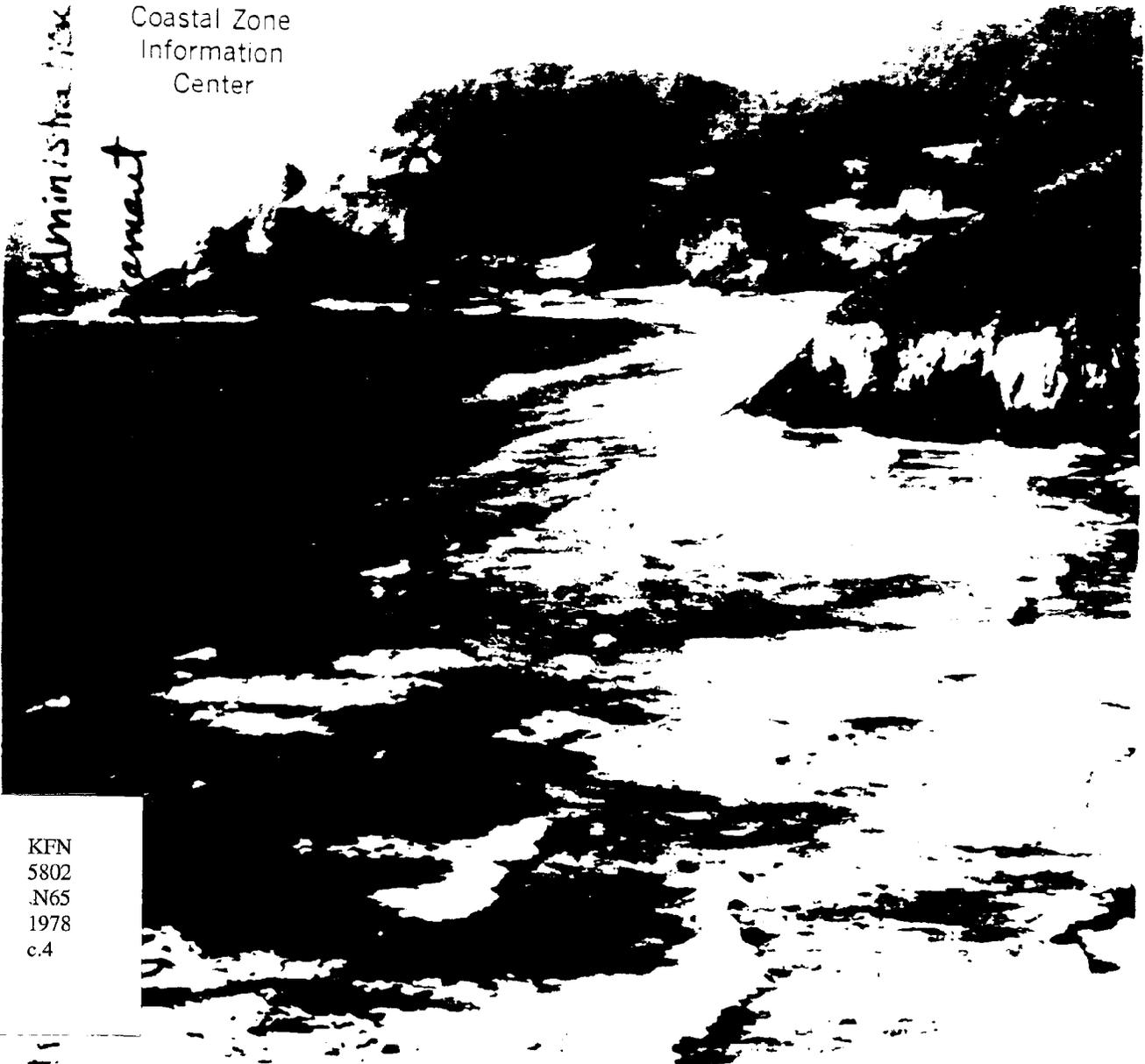
The Implementation of the Coastal Zone Management Act of 1972

A Report by the Coastal Zone
Management Advisory Committee



*Administrative
Committee*

Coastal Zone
Information
Center



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U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE

The Coastal Zone Management Advisory Committee was established by the Coastal Zone Management Act of 1972 to make policy recommendations to the Secretary of Commerce.

The Committee Charter states that the Committee should provide assistance on public understanding, proposed legislation, Federal activities, and the administration of the act.

The Advisory Committee is an independent citizens panel which consists of eleven conservationists, State government personnel, business executives, and environmentalists who represent a variety of occupations in coastal states around the nation.

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A Report by the Coastal Zone
Management Advisory Committee

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U.S. DEPARTMENT OF COMMERCE

Juanita M. Kreps, Secretary

National Oceanic and Atmospheric Administration

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UNITED STATES DEPARTMENT OF COMMERCE
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Coastal Zone Management Advisory Committee
5500 Whitehaven Street, N. W.
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Honorable Juanita M. Kreps
Secretary of Commerce
Washington, D. C. 20230

Dear Madam Secretary:

I have the honor to submit to you *Public Support for Coastal Zone Management Programs: The Implementation of the Coastal Zone Management Act of 1972*. The report is the product of a major part of the Advisory Committee's work program for this fiscal year.

The study is both timely and important due to Congressional reauthorization hearings on the Federal program next year, fiscal year 1980 budgetary decisions which may establish future program funding levels, court cases involving the implementation of state programs, and the significance of formulating a comprehensive oceans policy in the Carter Administration.

We are pleased to be able to comment upon such subjects as public support for coastal zone management, the specificity of coastal management programs, the Federal consistency and national interest provisions of the Federal Act, and future funding for the Federal program.

Our recommendations are:

- (1) the initiation of a major coastal zone management public awareness and participation effort (please see p. 43);
- (2) the establishment of an adequate level of program specificity to include
 - a. a definition of performance standards regarding specificity of state program elements,
 - b. the monitoring of consistency determinations over time as a gauge of specificity, and
 - c. a review of the Office of Coastal Zone Management Federal relations procedures (p. 50);



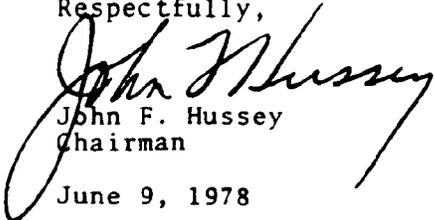
- (3) the preparation of a policy document by the Office of Coastal Zone Management that describes what constitutes the adequate consideration of the national interest (pp. 51-52);
- (4) extension of preliminary program approval funds for a limited period (p. 54);
- (5) deletion from the program of states not making adequate progress (p. 54);
- (6) a gradual phase down of Federal monies for operational programs (p. 55);
- (7) an increase in size and number of special assistance coastal programs and their linkage to state participation in coastal zone management (p. 56);
- (8) an "evolutionary" approach to the future of coastal zone management as the most desirable and feasible at this time (p. 58).

All of these recommendations will protect the Federal investment in the nation's coasts and will save public funds in the long run. Indeed, many of the recommendations can be implemented with existing resources.

In general, the Committee has been impressed by the fact that despite limited resources, significant accomplishments in coastal zone management have occurred. It is now time to refine and strengthen that effort in light of the evidence presented in this report.

The Committee was established by P. L. 92-583 on October 27, 1972 and was directed to make recommendations to your office concerning the implementation of the Act. With your assistance, the Committee intends to pursue its recommendations in all appropriate forums. Please be advised that the Committee has been requested to testify before Congress in the near future.

Respectfully,



John F. Hussey
Chairman

June 9, 1978

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ACKNOWLEDGEMENTS

The Committee wishes to express its appreciation to those agencies which, by making their personnel available, make this report possible. In Ohio, these organizations include the League of Women Voters, Ohio Environmental Council, Lake County Shoreline Advisory Group, Ohio Geological Survey, Lake Carriers Association, Ohio Conservation Foundation, Regional Planning Commission for Cuyahoga County, City of Cleveland Planning Office, Cleveland Museum of Natural History, Cleveland *Plain-Dealer*, Greater Cleveland Boating Association, Ohio Department of Natural Resources, Ohio Electric Utility Institute, Ohio Farm Bureau Federation, and the Ohio State legislature.

The organizations contacted in Louisiana include Shell Oil Company, Louisiana Wildlife and Fisheries Commission, Louisiana Coastal Commission, Port of New Orleans, Jefferson Parish Council, Louisiana Ecology Center, Sierra Club, Department of Transportation and Development, Office of the Governor, Mid-Continent Oil and Gas Association, Office of the Mayor of Morgan City, Morgan City Chamber of Commerce, St. Bernard's Planning Commission, New Orleans *Times-Picayune*, Orleans Parish Planning Commission, Plaquemines Parish Planning Commission, and the Louisiana State legislature.

In North Carolina, these organizations include North Carolina State University, Department of Administration, University of North Carolina, League of Women Voters, Department of Agriculture, Office of Marine Affairs, Conservation Foundation, State Utilities Commission, North Carolina Petroleum Council, Department of Natural Resources and Community Development, Coastal Re-

sources Commission, the State Coastal Resources Advisory Committee, and U. S. Army Corps of Engineers.

In all States, sub-units of the above organizations provided information. In addition, private citizens not affiliated with any organization were interviewed in each State.

The Committee thanks the headquarters personnel of Federal agencies for their participation in this study. Appreciation is also extended to the Office of Coastal Zone Management for its assistance in the report.

Finally, the Committee is grateful to the individuals who commented upon earlier drafts of the manuscript. Many of their suggestions have been addressed in this report. The responsibility for the findings and recommendations herein, of course, resides with the Coastal Zone Management Advisory Committee.

SUMMARY

"This study is both timely and important due to Congressional re-authorization hearings on the Federal program next year, fiscal year 1980 budgetary decisions which may establish future program funding levels, court cases involving the implementation of State programs, and the significance of formulating a comprehensive oceans policy in the Carter Administration." (p. iii)

"[T]he Committee intends to pursue its recommendations in all appropriate forums." (p. iv)

"Most observers agree that demands upon the Nation's coastal areas have increased during the 1970's. . . . Indeed the need for coastal zone management . . . is greater today than it was [in 1972]." (p. 1)

"The objective of this inquiry is to examine the depth and breadth of the coastal zone management constituency. This constituency is important since coastal zone programs will ultimately be judged in the political arena. . . . As a panel of private citizens . . . the Committee is in a unique position to address the . . . constituency issue." (pp. 1-2)

"The development and implementation of State coastal zone management programs consists of four stages: data collection and issue analysis, program formulation, program adoption, and program management. One State in each of these categories was examined. . . ." (p. 5)

"[In Ohio] several key assumptions of coastal management . . . are not present." (p. 7)

"An Ohio management program must be cast in such a way so as to enhance coastal resources in a tangible, easily comprehensible manner." (p. 9)

"Like Ohio, but unlike California, there does not seem to be a sense that Louisiana's coast faces very real dangers. The program, therefore, is seen more as another source of Federal funds to add to State and local budgets and less as a way for the State to deal with its coastal problems." (p. 12)

"[A]lthough North Carolina expressed interest in coastal management before the passage of the national Act in 1972, it has been encouraged and strengthened by Federal money, support, and leadership." (pp. 16-17)

"The . . . States, in very different ways, demonstrate the significance of establishing and maintaining a constituency for balanced use of the coastal zone. . . . Coastal zone management agencies must continue to inform people and build citizen support . . ." (p. 17)

"Nearly all [Federal] agencies believe that the establishment of a coastal zone management program is a task of considerable magnitude. . . . [However,] comments concerned (1) the lack of evidence that agency views were thoughtfully considered, (2) the unsatisfactory nature of State coastal zone management plans, and (3) the future of the Federal program." (p. 20)

"A variety of specific changes were suggested by individual administrators. . . ." (p. 21)

"All agencies believe that a basic reason for the Federal relations problems described above is that the Office of Coastal Zone Management acts as a "lobby" for States." (p. 22)

"[T]here does not appear to be undue concern about the future of coastal zone management among Federal officials. Most respondents recommend that States should continue to receive interim program development funding until they are fully prepared for program approval." (p. 22)

"In general, it was found that the demanding work necessary to formulate and approve programs meant the important, long term issues did not receive the attention they deserved." (p. 26)

FINDINGS AND RECOMMENDATIONS

"[S]erious constituency problems for coastal zone management . . . have developed. [They] are . . . (1) limited public participation, (2) the lack of State program specificity including the Federal consistency and national interest provisions of the Act, and (3) future funding issues in coastal management." (p. 26)

"The Committee found that there is a lack of understanding of coastal management in the country. If this situation is as pervasive as it appears, no concerned individual, user group, or government agency can effectively articulate its concerns." (p. 27)

"Rational use of the coastal zone . . . will not occur without a high degree of civic awareness. . . . *The Committee advises the Secretary of Commerce to initiate immediately a major public awareness and participation effort. . . .*" (p. 27)

"If Congress and the nation desire careful management of coastal resources, the type of initiative discussed above is a mandatory first step. . . ." (p. 29)

"Deliberations . . . on these two important provisions of the national law, [Federal consistency and national interest], are significant building blocks in establishing and maintaining a constituency for coastal zone management." (p. 29)

"These provisions of the Act . . . have created considerable uncertainty and tend to undermine public and private sector confidence in the coastal management process." (p. 30)

"The Committee recommends that the Secretary take action to insure that an adequate level of specificity include . . . (1) definition of performance standards regarding specificity of State program elements . . . , (2) monitoring of consistency determinations over time as a gage of specificity, and (3) a review of Office of Coastal Zone Management procedures concerning Federal agency views, informal efforts to resolve differences, responses to serious disagreements, and the use of mediation as prescribed by the Act." (p. 31)

"[T]he Committee recommends that a policy document be prepared by the Office of Coastal Zone Management that describes what constitutes the adequate consideration of the national interest." (p. 32)

"It was found that the availability of Federal money was crucial to the establishment of comprehensive coastal programs in nearly all States." (p. 33)

"The Committee . . . recommends that selected States which have made significant progress deserve an extension of preliminary program approval funding for a limited period. . . ." (p. 34)

"It is the consensus of the Committee, however, that States not making meaningful progress should be dropped from the program." (p. 34)

"In light of the importance of Federal monies in establishing State programs and the need to extend that support, an abrupt cut-off of program implementation funds would be detrimental to the balanced use of coastal resources and clearly not in the national interest." (p. 34)

"[T]he Committee recommends a gradual phase-down of Federal monies for operating programs. . . . The matching Federal share should drop from the current 80 percent to 66⅔ percent, 50 percent, and 33⅓ percent over a 10-year period. . . . If the State coastal zone management effort does not have enough support to obtain the necessary monies from its legislature, it is doubtful that it could engage in a meaningful, comprehensive program under any circumstances." (pp. 34-35)

"Since the Federal share of administrative costs is to be reduced, the Committee recommends that special assistance coastal pro-

grams be increased in size and number and tied to State participation in coastal zone management.” (p. 35)

“The Committee recommends an ‘evolutionary,’ middle course approach to future coastal zone management as the most desirable and feasible at this time.” (p. 36)

“Although an effective coastal zone management program cannot be quickly and easily developed without controversy, experience to date suggests that important changes are needed to strengthen the Coastal Zone Management Act of 1972. This report as well as future Committee documents address that need.” (pp. 37-38)

Introduction

Most observers agree that demands upon the Nation's coastal areas have increased during the 1970's. Energy facility siting, oil spills, coastal recreation, offshore oil and gas exploration, marine pollution, deep water ports, and other issues have heightened public awareness since the passage of the Coastal Zone Management Act in 1972. Indeed, the need for coastal zone management to deal with the increasing number of coastal problems and conflicting regulations is greater today than it was then.

The Act encourages States to develop general purpose programs to insure effective management of coastal resources. It also requires Federal agencies to cooperate in the implementation of State management programs. These programs are designed to adjust to the dynamics of the coastal zone and the political process. State programs are an ongoing planning and decision-making procedure and as such provide a forum in which difficult choices can be made. In a word, the management programs of the 30 States and five Territories participating in coastal zone management may influence how America's four coastlines are developed, protected, and restored.

The implementation of the Coastal Zone Management Act occurred in a period when energy and economic issues came to the forefront of the nation's agenda. There is little doubt that the political environment of 1978 is quite different from that of 1972 when the Federal law was passed. How have new needs and shifting national concerns affected coastal zone management? These are priority issues in the Federal Government and constitute an important part of the Committee's mandate. This report, therefore, addresses the implications of the changing environment in which coastal zone management occurs.

The objective of this inquiry is to examine the depth and breadth of

the coastal zone management constituency.* This constituency is significant since coastal zone programs will ultimately be judged in the political arena. The attitudes and actions of legislators, administrators, interest group representatives, and concerned citizens will be important in determining the number and quality of State programs. A substantial degree of public support is necessary if coastal management is to become a reality in the United States. The nature of civic interest in these programs can also illuminate many other policy issues such as the effectiveness of programs, intergovernmental relations, funding levels, and so on. As a panel of private citizens representing a variety of occupations and coastal regions, the Committee is in a unique position to address the coastal zone management constituency issue.

In order to examine this constituency, two important participants in coastal management—the States, which prepare management programs, and Federal agencies, which review and whose actions must be consistent with those programs—were included in the study. Original information was gathered from the following three sources: (1) structured interviews with a cross-section of concerned businesspeople, environmentalists, elected and appointed public officials, and private citizens in selected states; (2) headquarters personnel representing Federal agencies involved in coastal policy; and (3) testimony from guest speakers and panelists at Committee meetings. In addition, numerous official documents, State and Federal statutes, coastal maps, newspaper articles, organization charts, and research papers were examined.

Although this analysis is based on original data, the information reported and the strategies for change suggested are not necessarily novel. The fact remains, however, that many of the issues identified in earlier studies have not been fully dealt with. It is hoped that this report will contribute to a renewed discussion of the Nation's coastal zone and its management. Specifically, the Committee recommends that the Department of Commerce commit itself to effective action regarding the recommendations in this report.

This study identifies and analyzes problems in the management of coastal resources and makes a number of policy recommendations. The Committee also intends to assist policy-makers by (1) forming a task force to monitor proposed changes in the Federal Act, (2) providing advice on the issues discussed in this study, (3) suggesting appropriate amendatory language to the law, and (4) conferring with officials at

* Webster defines the term constituency as a necessary element or component part of a larger whole. For the purposes of this study, important constituents in the coastal zone management process include the States and Federal agencies (see below).

regular intervals during the controversy over the future of coastal management in the next year.

An important part of this debate will be the effort to identify just what coastal zone management means. Is it, for instance, embodied in the Federal statute, the administration of the law in Washington, D. C., or State programs around the nation? The Committee believes that coastal zone management is, unavoidably, all of these. Most importantly, however, the management of coastal resources can only be what people perceive it to be in light of law and practice. It is these perceptions that are reported in this study.

Several other current examinations of coastal zone management issues should be noted. The Department of Commerce, at the request of the President, recently concluded a Comprehensive Oceans Policy Study. This report included an assessment of coastal problems based upon existing government documents and data. In response to a directive from the Office of Management and Budget, the Department of Commerce will also conduct an evaluation of coastal management in late 1978. The Office of Technology Assessment will finish an in-depth feasibility study of energy facility siting in the summer of 1978. It will include a discussion of coastal issues. The Office of Coastal Zone Management is presently completing a review of the accomplishments of State programs and the effects of Federal funding. The General Accounting Office recently announced that it will review the administration of the Coastal Zone Management Act by the Office of Coastal Zone Management during 1978. Finally, Congress began its National Oceanic and Atmospheric Administration oversight hearings this spring. These hearings will include an examination of coastal zone management. The Coastal Zone Management Advisory Committee study is the only one conducted by a large group of non-Federal employees. It is also the only systematic effort to include candid, private views from users and protectors of the coastal zone.

The next two parts of the study report, in summary fashion, the views of responsible people in States and in Federal agencies. The findings discussed represent the attitudes of those individuals. The implications of the findings and the Committee's views are presented in section four. There is a brief concluding section at the end of the report.

Implementation of Coastal Zone Management Programs in the States

The development and implementation of State coastal zone management programs consists of four stages: data collection and issue analysis, program formulation, program adoption, and program management.* One State in each of these categories was examined including Ohio, Louisiana, North Carolina, and California. These States were judged by experts to be illustrative of various dimensions of coastal management issues. Participating States were *not* selected on the basis of their individual, State-specific successes or problems.

Ohio is an example of a State in phase one, data collection and analysis, of program evolution. It is one of a number of northern industrial States that has been relatively slow in developing a management program. Louisiana may be indicative of issues that arise in phase two, program formulation, of coastal planning. It is also a leading example of the role of oil and gas activities in the management process. North Carolina was one of the first States to enter phase three, program adoption, in recent years. As such, the North Carolina experience may be helpful to other States. Finally, California was chosen as one of the few States in phase four, coastal zone program management. It is also one of the most controversial programs due to the diverse nature of problems on its coast and the significant degree of State authority vested in the program.

The Committee divided into task forces and conducted site visits to Ohio, Louisiana, and North Carolina in January, 1978. The task forces consisted of four Committee members and one professional staff person.

* Robert W. Knecht, Assistant Administrator, Office of Coastal Zone Management. "Coastal Zone Management: A Bold Experiment." Address to the Coastal Zone 78 Conference, Jack Tar Hotel, San Francisco, California, March 14, 1978. The dynamics of this process are such that not all States fit neatly into these categories.

The State capitol and coastal areas were visited in each State. Approximately 25 to 30 individuals were interviewed in each location representing government agencies, citizen groups, and business (see Acknowledgments, pp. vi-vii). The number of people interviewed in each session varied from one to eight. Discussions averaged an hour in length. Activities in California were monitored by Committee members from California, followed by a 2-hour panel presentation at a Committee meeting in San Francisco, this year.

The States analyzed do not represent all issues and problems in coastal zone management program development and implementation. One of the unusual features of the Coastal Zone Management Act is that diversity in program development is not only permitted, but actively encouraged. Ohio, Louisiana, North Carolina, and California are indicative, however, of a wide variety of concerns in coastal resource management. Accordingly, the experience of these States may have important policy implications for other coastal States and the national coastal zone program.

This section discusses the findings from the task force visits to Ohio, Louisiana, and North Carolina. The California program will not be analyzed separately since it has already been the subject of numerous studies.* However, reference will be made to California in the report for illustrative and comparative purposes. The intent of the discussion is to highlight major program directions in the States *as seen by important constituent groups*. It is not an effort to provide a definitive analysis or exhaustive history of these programs.

OHIO

Factors Affecting Coastal Management

Ohio is in the early stages of the coastal management development process. It also exemplifies some of the issues that occur in a northern industrial coastal area. Since many other States are further along in

* See, for instance, Institute for Contemporary Studies, (ed.). *The California Coastal Plan: A Critique* (San Francisco: The Institute, 1976); Thomas Dickert, et al., *Collaborative Land Use Planning for the Coastal Zone* (Berkeley: Institute of Urban and Regional Development, 1976); Robert B. Ditton, et al., *Coastal Resources Management* (Lexington, Mass.: Lexington Books, 1977), especially Chapter Nine; Melvin B. Mogulof, *Saving The Coast: California's Experiment in Intergovernmental Land Use Control* (Lexington, Mass.: Lexington Books, 1975); Jens Sorenson, *State-Local Collaborative Planning: A Growing Trend in Coastal Zone Management* (Washington, D.C.: Office of Coastal Zone Management, 1978), especially Section Two, Part Nine.

program development. Ohio is in a position to benefit from their experience. At least two considerations will influence coastal zone management in the State.

First, most individuals with whom the Committee spoke indicated that the coast is not a major issue in the State. Access to the relatively small shoreline area is limited by a combination of private ownership, minimal recreational opportunities, and inclement weather. In addition, the virtual extinction of fishing in Lake Erie in the 1960's contributed to the low visibility of the coastline as a management unit. Finally, given the urban character of the State, it is significant that a number of cities are not located on the coast and some of those on Lake Erie are losing population.

Several key assumptions of coastal management (e.g., undeveloped shorelines, increasing demands upon coastal resources, widespread recognition of their value), therefore, are not present. The issues that have received the greatest public recognition are the water quality of the Great Lakes and shoreline erosion. Other problems include port development, recreation, revitalization of urban shorelines, and facility siting. These issues concern selected interest groups (e.g., boating organizations, industrial and utility companies), or economic elites (summer home property owners, yachtsmen), but not the public as a whole. In short, despite the existence of shoreline problems, coastal zone management is not a high priority issue in the State. Since there is no major concern about the coast, there currently is no large constituency which relates to it. Not surprisingly, coastal zone management simply has not been recognized as a tool for dealing with shoreline questions.

Second, the 1975 Ohio General Assembly created a Land Use Review Committee to examine relevant programs and make recommendations. This legislative report and its proposals will be considered by the Assembly in the near future. Coastal zone management is not mentioned in the study. The central political issue here, as elsewhere, is State versus local control. According to citizen groups and State legislators, the outcome of the land use debate is likely to significantly influence the State's coastal legislative initiative.

The State Program

The coastal program is housed in the Department of Natural Resources. Its director is an experienced administrator who has the support of the Governor. The political power of the department, regardless of who is in office, is widely respected. One lobbyist explained that this comes from the competence of the staff and the tenacity of the agency. He said, "Once they decide to go after something, it's a question of 'when,' not 'if,' and I've got the scars to prove it."

The department has decided not to engage in a high profile program of constituency building and public participation at this time. Since the State is beginning its program formulation phase of the management process, the department feels that it is too early to initiate that type of effort. As evidence of this strategy, the boating editor of the State's largest newspaper indicated that the State agency has never contacted the press in any comprehensive way. The rationale for this approach is that there is little to promise now and there is a danger of public support reaching its peak too soon in the program development process.

Furthermore, knowledgeable officials indicated that this kind of activity is not the way to accomplish policy goals in Ohio. Instead, the department is beginning a plan to increase slowly public awareness and interest. Opportunities for participation of government agencies, interest groups, and the general public are currently available through a State Advisory Group, seven local Shoreland Advisory Groups, a newsletter, the Governor's Ad Hoc Land Use Coordinating Committee, and the League of Women Voters' coastal activities.

Ohio has recently received its third Federal coastal zone management grant. National planning money was quite influential in establishing the State program. This is, of course, true for many other States (although not necessarily California where major initiatives preceded the Federal effort). While Ohio has always been involved in shore area management, it is probable that there would be no formal coastal zone program in the absence of Federal support. In fact, the program was dropped in 1975 due to State fiscal problems. It was reinstated in 1976.

The Future of Coastal Management in Ohio

Although a final proposal for the State program in Ohio has not been developed, its outlines are apparent. First, like California and North Carolina (and other States), the principal management responsibility will reside in local and State governments. The State will provide technical and financial assistance to local governments to help them in their planning and to enforce State coastal policies. Second, the program is likely to emphasize process issues (i.e., organizational structure, identification of State authorities, definition of permissible uses, and so on) in coastal management. Decisions about specific projects (e.g., the proposed steel mill at Conneaut) will probably be handled by existing State regulatory programs and local governments.

The State program has developed a conceptual awareness among some interest groups and established an arena in which to discuss coastal problems. In addition, the management framework could serve as a vehicle for overall planning to expedite access to monies from various Federal sources. While signs of progress exist, Ohio is one of several

States where the State coastal management program has not yet made a significant difference in the management of coastal resources.*

What is needed now, one State legislator argued, is authority for "consensus projects" that could be accomplished without great controversy. Demonstration or enhancement projects, such as a major clean-up campaign of beaches or parks, would show that something is being done. Similarly, a key law-maker predicted that if all the coastal delegations got together, a program with local emphasis would pass. "But," he continued, "planning and administration—much less regulation—simply won't sell. Some 'hardware' or 'bricks and mortar' money is needed for tangible results." For instance, the proposed erosion amendments to the Coastal Zone Management Act could be to Ohio what the Coastal Energy Impact Program was for other States (see below).

An Ohio management program must be cast in such a way so as to enhance coastal resources in a tangible, easily comprehensible manner. In some States (e.g., California) a sensitivity to coastal issues, often expressed in legislation, predated the Federal effort. Indeed, this public concern was so substantial that coastal user organizations did not have to be solely relied upon for political support. In Ohio, however, it is likely that a statewide constituency of interest groups and the general public will probably be necessary to achieve the level of attention needed for significant coastal management to occur. As a northern industrial State, Ohio's primary concerns are urban and economic in nature. Coastal zone management in Ohio, in conclusion, is simply not a leading public policy issue.

LOUISIANA

Origins of the Program

Unlike Ohio, Louisiana has had a history of various forms of coastal activities. Most interviewees pointed out that competing demands upon the coast over the years have been dealt with on a multiple-use basis without serious controversy. This has been done in the absence of a State wetlands law and a separate government bureaucracy. Louisiana has not had, however, a coordinated and comprehensive management approach to its coastal zone, an important reason for the passage of the Federal law. Respondents indicated that there is a need for some kind of program provided that it enhances local activities. Indeed, the State

* Statement by Robert W. Knecht, Assistant Administrator, Office of Coastal Zone Management, in United States Congress, Senate, Committee on Commerce, Science and Transportation, *Hearings*, 95th Congress, 2nd Session, April 3, 1978.

legislature expressed interest in coastal management as early as 1971. Statewide public opinion polls in 1974 and 1977 also revealed that citizens see a need to insure orderly development and protection of Louisiana's wetlands consistent with economic growth.

The State Program

The State received its first grant in 1974 and initiated program development activities through the State Planning Office. Much appropriate technical information necessary for completion of phase one of the coastal zone management process has been gathered. Phase two, program formulation, has centered on boundary questions, preparation of local plans, public participation efforts, identification of management areas, and implementation of the Coastal Energy Impact Program (CEIP).*

During this period, the lead agency began to press for the necessary legal authority for the program. Three years of controversy ensued which resulted in the passage of a bill that would not meet Federal approval criteria, the transfer of the program to the Department of Transportation and Development, and a gubernatorial pledge to the Office of Coastal Zone Management to support a new bill in 1978. The Federal office was criticized during this time for not making its requirements clear. "We lacked a framework, the bottom line, with which to prepare an acceptable plan. The Office of Coastal Zone Management didn't deliver the necessary parameters until the fall of 1977," commented one influential decision-maker.

Louisiana, like other States, experienced initial opposition from local governments, according to the program manager and other respondents. An aide to the Governor pointed out that the program was grossly misunderstood at the local level. Many parish officials saw it as just one more Federal planning program that would ultimately restrict their activities.

Today, however, most officials support the program as a way to recover control of wetlands from the Army Corps of Engineers and to fortify their political base. Contracts (instead of grants) with coastal parishes for planning, advisory committees, and public information programs were important factors in gaining local support. In short, the program has provided significant technical information to parishes and

* The CEIP is designed to help States minimize the economic and social impacts associated with rapid energy development. Assistance, in the form of grants and loans, is available for new public facilities and service and environmental protection activities. To be eligible for CEIP funds, States must either be participating in the Federal program or be developing an independent program that is consistent with the intent of the Coastal Zone Management Act.

has developed a degree of awareness and appreciation of coastal problems. CEIP grants and loans have given the program a visibility that it may have otherwise lacked. A parish planner said that "coastal management has not produced significant changes in the way things are done, but there is more money to do them."

Despite this, the State official responsible for the proposed coastal legislation feels that the program has not accomplished a lot and must be more positive. "Coastal zone management is a half-hearted attempt at land use that may address process problems and may produce reasonable policy," he argues. "The concept is unclear to people." This is illustrated by the fact that this same official has never heard of the Federal consistency provision of the national law.* A key state legislator confirmed the need for a continuing educational effort. "It's not a question of neutralizing the opposition," he said, "as much as an educational process to build a constituency."

At the time of the Committee visit, nearly all interviewees, however, thought the passage of an acceptable State law was likely. "It's simply a matter of logrolling to get funding for coastal parishes," remarked a top cabinet official. A State legislator said, "The lure of the Federal dollar and the potential local influence over the district Corps office will be sufficient to pass the bill." "The stage for compromise is set," according to a gubernatorial aide. "No law, no money." In a word, there seems to be a firm commitment to obtaining financial aid even if a State coastal law is required. While a number of parishes are making a good faith effort, the specifics of coastal zone management are not well understood in many parts of the State.

Future Prospects

Although it is difficult to predict what will occur in Louisiana, it appears likely that the State will develop a program proposal and seek a compromise with the Office of Coastal Zone Management (OCZM). The approval process can cut both ways, a high official argued. "If the Feds can't approve the Louisiana plan, what can be approved? To sell offshore drilling to Atlantic coast states, OCZM must show a program that works."

The difficulty with this approach, according to knowledgeable observers, is that the lead agency is well known for its powerful role in State politics. The department might be able to get coastal legislation and State matching monies, but many question its capability to implement

* This provision requires that all Federal agencies conducting or supporting activities in the coastal zone must be consistent with the State coastal zone management program to the maximum extent possible.

an effective management program. Similarly, parish officials may find it hard to act in concert with State or national interests if these interests come in conflict with their constituencies. Problems such as these suggest that Louisiana and other States may not be ready for coastal zone management as the Federal law is now written. Indeed, recently, serious opposition to the coastal management bill has emerged in the State legislature. In addition, environmental groups in the State have indicated that they intend to sue if a program that is inadequate in their view is approved. Oil and gas interests, which are powerful in Louisiana, are taking a close look at the program as well. The coastal zone boundary, the number of parishes to be included in the program, and control over permitting activities are important, controversial issues in the State.

Future program implementation funding issues are not of great importance to Louisiana policy-makers. However, the State is acutely interested in future funding levels for the Coastal Energy Impact Program. In contrast to California, where a substantial coastal constituency exists, phasing down of implementation monies (particularly if the program is not firmly established) would be very detrimental to the balanced use of coastal resources. In the opinion of the majority of the respondents, it would probably mean that present program leaders in Louisiana would continue the effort only to the degree necessary to remain eligible for CEIP funds.* Although some officials acknowledge that if coastal zone management does not work, coastal problems will intensify, positive incentives and affirmative actions are needed to make the program more attractive. For example, potential of the State coastal program to influence Federal programs is important in Louisiana where much of its land is regulated by the Federal Government.

In conclusion, the Louisiana program has developed slowly due to its history of multiple use in the coastal zone, the mistrust and skepticism of local officials of State and Federal governments, and alleged uncertainty regarding the requirements of an approvable plan. These factors became evident as the State officials sought to inform decision-makers and the public. However, there now appears to be support for the program and the Federal assistance that it brings in the form of administrative grants and CEIP funds. Despite these financial benefits, officials claim that the program provides few positive incentives for coastal zone management. Like Ohio, but unlike California, there does not seem to be a sense that Louisiana's coast faces very real dangers. The program, therefore, is seen more as another source of Federal funds to add to State and local budgets and less as a way for the State to deal with its coastal problems.

* In order to receive continued funding, the Federal Act requires an annual recertification procedure for approved coastal zone management programs.

NORTH CAROLINA

Origins of the Program

The North Carolina legislature, similar to California's and Louisiana's, demonstrated interest in coastal problems prior to the enactment of the national law. The most important product of this concern was the Coastal Area Management Act (CAMA) of 1971. CAMA was described by one State administrator as so controversial that it was the most amended bill in the State's history. "It was finally approved at the end of the legislative session," in the words of one of its supporters, "because the opposition did not expect it to be brought up."

The bill was passed by a coalition of liberal Democrats from urban areas and by Republicans from across the State who followed the lead of the Republican Governor. Legislators from coastal districts generally opposed the bill as an attempt by the more populous Piedmont region to impose land use regulations on their area. Only one of the 20 coastal county delegations voted for CAMA. That support was based less upon the merits of the bill (indeed, the county later became an ardent opponent of the law) than on the party affiliation of those representatives. The Act has been judged by the Office of Coastal Zone Management as sufficient State authority to manage the coastal zone under Federal law.

According to the interviewees, the reasons that North Carolina joined the national program were the following:

- (1) the availability of national dollars (all respondents)
 - (a) the previous State administration generally had not secured available grant monies from Washington;
 - (b) the passage of the Coastal Zone Management Act of 1972 made the promise of Federal planning funds a reality.
- (2) the alleged threat of Federal intervention (i.e., "If we don't manage the coast the Feds will") (all respondents).
- (3) the climate of the times as reflected in an environmentally conscious Administration and close ties between the legislature and the university community (most respondents).
- (4) the potential for a consolidated approach for permitting (some respondents).
- (5) recognition of the importance of the coast (several respondents).
- (6) the value of planning in areas that had no previous planning experience (several respondents).

In summary, the State program began with little support from the region it was to manage. It was perceived by the coastal counties to have

been based upon negative incentives and misconceptions (e.g., availability of money, the Federal threat).

Accomplishments and Shortcomings of the Program

The primary accomplishments of the program are those associated with phase one (data collection) and phase two (program formulation) of the management process. These activities typically include those necessary to develop an adequate scientific base for a coastal program and political support among local officials. In fact, many town council members and county commissioners who originally opposed coastal area management presently endorse it: the process of developing local plans and making management decisions involved many officials and won their support. There is now a local government constituency that believes in the management of coastal resources, particularly if it is not a State infringement on local control.

If phase three of the management process, program adoption, includes a political and educational effort to build a constituency beyond official coastal zone management circles, the picture sketched above is less optimistic. Unlike Ohio, where the program has low visibility, the North Carolina program is visible, but it is not well understood. A responsible official in the State agency indicated that little assistance was received from the Office of Coastal Zone Management on how to establish an effective public participation program. Although North Carolina is ready to enter the program management phase of the Federal program, the evidence suggests the coastal zone management constituency is not as broad as it might be. Examples of the problem occur in (1) the public, (2) the legislature and the courts, and (3) State government.

First, the agricultural community has emerged as a chief opponent of coastal management since the passage of CAMA. An agriculture spokesman believes that this opposition is not necessarily based on the content of the program and may recede under the right circumstances. Nonetheless, the program is currently seen by some "as still another regulatory, negative law. Despite the potential benefits, people are asking 'how many more rules must be met?'" The depth of this concern is illustrated by the fact that the State Farm Bureau has a standing resolution to repeal CAMA. In addition, a number of environmental groups have also been critical of the program.

Second, opposition has occurred in legislative and judicial arenas. Although a recent suit contending that CAMA is unconstitutional was dismissed in court, it may be indicative of the constituency problem. Similarly, the State law was subject to attack in the legislature in 1977.

While a bill to repeal CAMA was narrowly defeated, the House passed a measure restricting authority to designate areas of environmental concern. It is interesting to note that the State coastal zone management agency supported the bill. The Senate may act on it in 1978. In the opinion of several knowledgeable observers, the ability of CAMA to survive these challenges to date reflects its basic soundness. Nonetheless, as indicated, these problems may reflect the troubled state of the coastal zone management constituency.

Finally, coastal zone management does not appear to be well regarded within State government. A top administrator in the Department of Natural Resources and Community Development (the agency that houses the State coastal office) said that "coastal management has not had any appreciable effect in resolving such problems as water pollution from ill-conceived developments." Further, he feels that public participation is still pro forma and that local plans will sit on shelves. An official from the Department of Agriculture states that the Department was, for all practical purposes, excluded from coastal zone planning. A respondent from the Department of Administration wondered why the State coastal zone management office did not participate in the Governor's Conference on Balanced Growth. "The State coastal zone agency could act as management ombudsman if a strong Governor, communication, and real incentives could bring agencies together to coordinate activities in coastal zone areas," another official stated.

Apprehension in the executive branch may have stemmed from concern about what would happen when the North Carolina Coastal Resources Commission began issuing permits on March 1, 1978. It also may have been aggravated by a recent executive order requiring State agencies to coordinate with the State coastal zone management office. In any case, support for coastal management activities is not what it might be except for those State and local officials who receive direct benefits from the program.

An important reason for this situation, according to many, is that the Federal office strongly urged the State to move toward program approval. Thus, unlike Louisiana, where Washington was criticized for not providing clear Federal standards and deadlines, North Carolina found the reverse to be true. Due to pressures to meet State requirements, North Carolina would have liked to have had more time to inform and broaden its constituency and to develop policy positions relating to the 1976 Amendments of the Federal Act. Public opposition to coastal area management in the latter stages of the management process is not unique to North Carolina and is probably inherent in implementing effective programs. Even California, which has a comparatively large constituency, vigorous opposition to coastal zone management still exists.

Future Prospects

Since the State has just recently begun its permitting process under CAMA, it is premature to gage the impact of the program. The next two or three years are likely to be very important for its future, since CAMA is due to be reauthorized in 1981. What key problems exist on the horizon that North Carolina and perhaps other States may have to face? The Committee identifies the following three areas: (1) the merits of the program, (2) the State's balanced growth policy, and (3) the proposed Office of Management and Budget reduction of Federal funds.

First, many respondents indicated that the fate of the State program may not necessarily rest on its actual content. Since turnover in most State legislatures is high (as much as one-third), a continuing reeducation effort is necessary. A similar problem exists in many local governments. Further, segments of the public (particularly agricultural and environmental interests) oppose the program. An official for the Department of Agriculture, however, states that farmers might support the program if they were sure of what it meant. North Carolina demonstrates quite clearly that a meaningful, long-term, and more focused public participation effort is necessary if coastal area management is to gain and maintain the support of important groups.

Second, the current State administration is developing a policy framework within which programs must justify their activities. A Department of Administration spokesman said that "the coastal agency must relate to the Governor's policy on balanced growth." Agency officials have made few visible efforts to link coastal issues with this State policy. If the program is to be a policy forum for competing interests, there must be a compelling reason to coordinate with the coastal agency. Unless the program, financed largely by Federal funds, can further State objectives, coastal management will have limited appeal in States like North Carolina.

Finally, an important test of broad State support for any national grant program is the fate of the program in case of a Federal funding phase down. Unlike California (where a significant part of the population lives on the coast), North Carolina would be hard pressed to justify the necessary expenditures for the rural, coastal area in view of other priorities. A senior State senator indicated that "taxes will not be increased for the foreseeable future." Further, a mountain area management act was recently defeated in the legislature. A former State coastal administrator recommended that "the present level of funding should be maintained for several years followed by a gradual phase down. The State program must be given a chance to prove it can make a difference before it can support itself." In conclusion, although North Carolina expressed interest in coastal management before the passage

of the National Act in 1972, it has been encouraged and strengthened by Federal money, support, and leadership.

SUMMARY

This section has reported the digest findings from site visits to three coastal States. Ohio is a State where some of the important reasons for public support of coastal management do not exist. This, no doubt, helps explain why it, like other industrialized States in the lower Great Lakes region, is relatively slow in program development. Ohio illustrates the necessity of a more aggressive posture at the State level as well as a more affirmative Federal program, provided that its coastal problems are serious enough to warrant it.* Louisiana, whose coastal area is an important national resource, has experienced difficulties in formulating an adequate management plan despite the incentive of CEIP funds. Many of these difficulties are now being dealt with, and it appears that the State will join the Federal program provided that the right mix of minimal conditions and maximum funding exists. The Louisiana experience indicates that while CEIP funding is important, it may not be a sufficient incentive for States to develop management practices that meet Federal approval criteria. North Carolina is a State that recognizes the importance of coastal area management. However, it has many other priorities, since most of its population, and that of its sister States in the region, does not live on the coast.

These three States, in very different ways, demonstrate the significance of establishing and maintaining a constituency for balanced use of the coastal zone. Ohio needs to do this, perhaps more than other States, but has not. The process being created now will hinder or help it later. The experience of Louisiana and North Carolina (as well as California) suggests that Ohio's policy needs review since those States are continuing to experience constituency problems. However, in Louisiana and North Carolina, most respondents indicated that opposition was based more on misconceptions of the program than on its actual substance. It should be pointed out that the presence of opposition is not, by itself, a sufficient criterion by which to evaluate coastal zone management. Any program that actually makes a difference in public policy will inevitably experience opposition. Clearly the evidence demonstrates the need for an ongoing educational effort to make the

* Alternatively, the question might be raised, "Is there anything of national significance that would be lost if a coastal zone management program were not established in Ohio?" If the answer is affirmative, perhaps a more narrowly focused, segmented program would be appropriate.

program more attractive. Coastal zone management agencies must continue to inform people and build citizen support through thorough studies and easily grasped explanations of their implications.

Implementation of the Coastal Zone Management Act: A View From Federal Agencies

This section presents the findings from interviews with government officials in Washington, D. C. These officials represent agencies that play a significant part in national decision-making as it relates to coastal areas in the country. The Coastal Zone Management Act requires that all Federal agencies with programs affecting the coastal zone review State plans prior to approval and that they comply with the Federal consistency provisions of the Act. Clearly then, Federal agencies are major participants in the coastal zone management process.*

The interviews were conducted in January and February, 1978, with eight important agencies: Department of Agriculture, Corps of Engineers, Department of Interior, Environmental Protection Agency, Department of Energy, Department of Housing and Urban Development, National Oceanic and Atmospheric Administration, and Economic Development Administration. The individuals contacted were the designated "coastal zone management representatives" in their respective organizations. Federal agency field personnel in departmental regions and districts were not contacted in a systematic fashion. The number of interviewees in each agency ranged from one to five. The discussions, using a structured interview schedule, averaged one hour in length.

The objective of this section is to discuss the nature of the coastal management process *as perceived by selected Federal departments*. It is not an attempt to document the history of the Office of Coastal Zone Management Federal relations nor to provide a detailed analysis of all the substantive issues in intergovernmental affairs.

* It should be noted that although the term "Federal relations" applies to a specific function and section in the Office of Coastal Zone Management (OCZM), a large number of OCZM personnel engage in relations with other Federal agencies by the very nature of their responsibilities.

BACKGROUND

The legislative history of the Coastal Zone Management Act of 1972 reveals that Federal agencies played a limited role in the formulation of the Act. The major issues concerned which agency should administer the program (Department of Commerce or Interior) and the relationship of coastal management to national land use proposals. The coastal zone management program was originally viewed by the Federal community as simply another grant program that might later be integrated into a comprehensive land use effort.

This perception of the program changed when the prospect of a land use law receded and as States began to apply for program approval under the Act. By the mid 1970's, agency concerns and objections were raised in increasing number and severity. These complaints included requests for exclusion of Federal lands, failure of adequate consideration of Federal agency views, and demands for procedural and substantive overhaul of the entire program.*

THE FINDINGS

Nearly all agencies believe that the establishment of a coastal zone management program is a task of considerable magnitude. One reason for this is that coastal management does not have a large built-in constituency that will directly benefit in a financial way from Federal grants. Several agencies, however, complimented the Office of Coastal Zone Management staff for its understanding of intergovernmental relations and sensitivity to State and local concerns. Respondents also recognized the difficulties in administering a politically volatile, voluntary program. It is in this context that many of the criticisms of OCZM Federal relations were cast. The comments concerned (1) the lack of evidence that agency views were thoughtfully considered, (2) the unsatisfactory nature of State coastal zone management plans, and (3) the future of the Federal program.

First, agencies felt that OCZM Federal liaison activities were good in terms of ease of contact and opportunity to comment. The crucial problem, however, is that officials believe their comments on coastal zone management plans are not taken seriously. For instance, one administrator said that OCZM advised him to "go to court" if his

* See Comptroller General of the United States, *The Coastal Zone Management Program: An Uncertain Future*, (Washington D.C.: General Accounting Office, 1976), Chapter Five; and Timothy M. Alexander, "The Intergovernmental Balancing Act: State-Federal Interests in Coastal Zone Management," (unpublished paper, 1977), especially pp. 41-58.

department did not like a particular State program. Managers also stated that there was not a sufficient feedback mechanism for official comments. It was suggested that OCZM fully develop informal channels of communication in addition to using formal meetings and the *Federal Register*. In short, willingness to listen exists, but real responsiveness on the part of OCZM is questioned by many agencies.

Second, Federal offices feel that many State plans are procedurally and substantively inadequate. Several agencies were critical of the way that the "networking" procedure (the tying together of existing authorities to form a State coastal program) is being implemented in some States. One respondent indicated that this strategy is just a way of "sanctioning existing State departments that have proven shortcomings" by giving them more money to do what they had been doing before the adoption of the State program.

Agencies also were critical of the alleged lack of substance in programs. Most officials asked "What does it mean to have an approved program? Plans are so vague that it is impossible to tell what is being approved. We don't want to be held to consistency requirements if it means we are held to everything and anything." Programs that are procedurally and substantially lacking, it was suggested, would lead to numerous court cases. A variety of specific changes were suggested by individual administrators including:

- (1) establishment of regional coastal zone management offices to facilitate intergovernmental coordination;
- (2) dealing with the perceived tension in OCZM between its Federal relations personnel and State programs staff;
- (3) changes in management practices and/or new leadership in order to encourage more specificity in State programs;
- (4) recognition of Federal agency responsibility prior to draft environmental impact statements;
- (5) increased educational and awareness programs to improve understanding of coastal zone management practices;
- (6) a forum or conference for Federal officials on coastal zone management issues; and
- (7) preparation of and adherence to interagency memoranda of understanding.

In short, respondents felt that better participation would produce better plans.

One official summarized these views in this way: "The present leadership knows these problems, but does little about them. The administrative problems associated with some voluntary grant programs (e.g.,

the Department of Housing and Urban Development 701 program) are occurring again. A lot could be learned from the Environmental Protection Agency 208 program." All agencies believed that a basic reason for the Federal relations problems described above is that OCZM acts as a "lobby" for States. From their perspective in Washington, many respondents felt that a more viable role for the Office would be as a third party mediator or ombudsman between the States and the rest of the Federal establishment. For instance, one respondent suggested that OCZM sponsor more meetings between State and Federal officials.

Third, there was a division of opinion among agencies concerning the future of coastal zone management. One official stated that "the first States to receive approval may well be the best since they are establishing benchmarks. I don't really expect any meaningful improvements in this process unless OCZM management changes. OCZM hasn't turned anything (i.e., final programs) down yet." Another administrator stated that a funding phase down should permit most States to complete their planning. After that, "States will either say 'the hell with it' or will simply secure Federal monies from other sources."

A more sympathetic administrator also expressed concern about the future of coastal zone management. "It is not clear what an operational program will look like. It's too early to tell, but some States have no coastal law, Federal consistency requirements, and other key elements of a strong coastal zone management program." Finally, the view was offered that OCZM's rejection of State programs gains little. "The CZM Act is one of the few Federal land use laws on the books. The draft environmental impact statements are weak, but they might have to be given political realities. Programs will improve over time." In general, there does not appear to be undue concern about the future of coastal zone management among Federal officials. Most respondents recommend that States should continue to receive interim program development funding until they are fully prepared for program approval.

SUMMARY AND CONCLUSIONS

By the way of summary, several anecdotes illustrate some of the problems discussed in this section. One respondent indicated that the American Society of Planning Officials recently published an in-depth monograph, *Planning for Onshore Development*, which is used in workshops for government executives. The Commerce Department's Office of Coastal Zone Management does not play a prominent role in the publication and is given little consideration as a source of assistance in coastal

planning. Another official is the chairman of a planning agency in a coastal area in a nearby State. In that capacity, he is not aware of any activities on the part of the State coastal agency. These examples suggest that coastal zone management is not as well known as it might be or as Congress has been led to believe.

However, as shown earlier, knowledge of coastal programs is no guarantee of their acceptance in the Federal government. One administrator related that an important, scheduled meeting with key OCZM personnel was cancelled by his agency chief in order to interview a college student for a summer job. If the facts described above are indicative of the visibility, impact, or importance of OCZM,* it is evident that it is considered a junior member in the community of long-established and well-funded Federal grant programs.

Respondents, in summary, feel that it is too early to render a definitive judgment about the Federal coastal zone management program. Experience to date, however, is not particularly encouraging in the view of concerned agencies. Departments have communicated their objections informally and formally and remain dissatisfied. One office is questioning why it should continue to evaluate coastal management plans, particularly if the Federal program is going to be phased down. Another department stated that it concurred with an earlier program approval on the grounds that it was better than none at all. They are now reconsidering their position.

These concerns were expressed by an official who said that "the issue is not OCZM versus the Federal bureaucracy, but how to address problems in a comprehensive way. The Coastal Zone Management Act is a vehicle for the protection and development of the coasts. CZM programs must do more than simply describe the problem." For both procedural and substantive reasons, the coastal zone management constituency within the Federal government is not particularly supportive of official coastal management practices in the Nation.

It is apparent that the findings reported in this section reflect the frustration that many agencies have experienced during years of discussion and disagreement over regulations and program approvals. It should also be noted that some Federal agencies have not devoted adequate time and resources during the coastal zone management program development process. In addition, a number of the problems identified

* The substantive problems are documented in the public record. See, for example, the Department of Energy's April 22, 1977, letter on the Oregon program; the Department of Transportation's May 17, 1976, letter on the Washington program; the Department of Army's December 2, 1977, letter on the Wisconsin program; and Department of Housing and Urban Development's February 8, 1978, letter on the Michigan program.

by the agencies have been addressed by the Office of Coastal Zone Management. In any case, although some agencies did not recommend approval of selected State programs, no agency elected to appeal its views to the Secretary of Commerce. Nonetheless, a significant factor in building support for any program is how that program is perceived. Stated differently, what people think exists is frequently as important as what actually exists.

Implications of the Findings

The Coastal Zone Management Act is an experiment in intergovernmental relations designed to encourage the balanced use of coastal resources. It was passed by Congress at a time when environmental legislation tended to be overwhelmingly and rapidly approved with minimal debate. Not only does the Act contain some complex and unique provisions, but it also deals with the controversial subject of land and water use. Virtually all concerned were overly optimistic and had unrealistic expectations about this experiment in the early seventies. It has taken longer for every State, not just the slow ones, to get coastal management started than anyone thought it would before it was tried.

It has been found that support for coastal zone management in the Nation is not as broad or as deep as it must be in view of the increasing importance of the problem. This is attributable to several factors including (1) the formulation of State plans, (2) Federal agencies participating in coastal zone management, and (3) how OCZM defined its role in the decision-making process.

The State programs analyzed demonstrate the significance of establishing and maintaining a constituency for the rational use of coastal resources. Coastal zone management agencies must educate and build citizen support by identifying concrete goals; developing incentives for coastal management, and demonstrating the benefits to be derived from them.

Secondly, despite the attention given to program planning, Federal officials are generally dissatisfied with the quality of coastal programs. As a result of this and agency concerns about Federal consistency, potential support for coastal zone management within the Federal Government appears to be limited. There is a clear need, on the one hand, for both the State and Federal coastal zone management offices to engage Federal agencies earlier and more productively in the program. On the

other hand, Federal agencies must invest the time and resources required to contribute meaningfully to coastal zone management in the Nation.

Finally, perhaps due to the voluntary nature of the program and the inherently symbiotic relationship that develops, the Office of Coastal Zone Management tends to represent State interests in the Federal program. The Office might be a more effective agent for coastal zone management if it attempted to act as a third party between the States and Federal Government. It does not need to seek the lowest common denominator of a minimally acceptable program from States. The Committee found that, in many cases, States indicated that they would like to have a coastal program even if Federal support did not exist.

In general, it was found that the demanding work necessary to formulate and approve programs meant that important, long-term issues did not receive the attention they deserved. A major reason for this is that many Federal decision-makers apparently viewed coastal zone management as little more than a pilot program in land use. Monies were not appropriated for the 1972 Act for nearly two years and have been small in quantity since, when compared to other Federal programs.

As a result, both the Federal and many State coastal zone offices have been underfunded and understaffed and serious constituency problems for coastal zone management in the Nation have developed. In fact, according to two influential commentators, the constituency issue proved to be the underlying theme of the national Coastal Zone 78 Conference.* Constituency problems are reflected in the following ways: (1) limited public participation, (2) the lack of State program specificity including the Federal consistency and national interest provisions of the Act, and (3) future funding issues in coastal management. As a panel of citizens, the Committee will attempt to highlight the concerns of the public on these issues and suggest constructive criticisms. It is hoped that these proposals will stimulate a debate about the future directions of coastal zone management that will endorse, refine, or reject the Committee's views.

PUBLIC PARTICIPATION

Public involvement and Federal agency participation in the development of State programs is required by the Act. Yet, whatever the scientific or political legitimacy of coastal management, the coast is seldom recognized as a discrete entity by the American public. Few States, for example, had developed a comprehensive and intergovernmentally struc-

* John R. Botzum and Rose Jacobius (eds.), *Coastal Zone Management Newsletter*, Volume 9, Number 12 (March 22, 1978), entire issue.

tured framework for management of coastal resources prior to the passage of the 1972 Federal Act. Similarly, as discussed earlier, Federal agencies did not generally realize the implications that coastal management would have for them at the time the Act was passed.

The Committee found that there is a lack of understanding of coastal management in the country. If this situation is as pervasive as it appears, no concerned individual, user group, or government agency can effectively voice its concerns. It is difficult for many participants in the process to see how management policies actually translate into specific issues. The coastal zone management process, under such circumstances, can hardly become an effective ombudsman for or mediator of competing coastal uses.

An important problem for many planning and management programs is that they do not have a built-in constituency which gains economically from its activities. With the exception of good government groups, it is difficult to get people interested in management problems unless a widely recognized crisis exists. Further, programs, such as coastal zone management, that benefit the general public are frequently at a disadvantage in the political arena when compared to programs that reward well-organized, aggressive special interest groups. Finally, in comprehensive coastal management, which holds the potential to deal with numerous problems, disillusionment easily occurs when problems are not quickly solved. Since demands on the coastal zone are accelerating and this is likely to continue throughout the 1980's, basic public understanding and involvement in coastal management is needed.

The public interest will be actively protected when people become aware of the significance of coastal resources. Coastal zone management challenges people to consider qualitative growth by rethinking traditional institutions and decision-making processes. Rational use of the coastal zone—a concept few dispute—will not occur without a high degree of civic awareness. Although a number of private organizations, with the support of the Office of Coastal Zone Management, have engaged in public information activities, coastal user groups cannot be expected to undertake this important task alone.

The Committee advises the Secretary of Commerce to initiate immediately a major public awareness and participation effort at the State and national level. Although this proposal is not new—indeed, it has been suggested in different forms in the past—the fact remains that effective action has not been taken due, in part, to limited personnel and financial resources. The specific nature of this initiative should be agreed upon by coastal interests and could include activities such as State and local hearings, presentations by recognized authorities, private sector mass media advertisements, national and regional conferences,

television documentaries and magazine stories, and additional public information personnel for coastal programs. Within the Federal community, several departments suggested that the Office of Coastal Zone Management initiate some form of communication outlet to informally present its views and positions. Topics of such meetings and publications might be descriptions of coastal zone management, performance levels of State programs, Federal consistency, national interest considerations, and other problems discussed in this report and elsewhere. The Committee recognizes that any such program will not, by itself, solve the difficult issues in coastal resources management. It will, however, provide a new forum in which interested citizens can meet and discuss policy—the primary purpose of the Coastal Zone Management Act.

The timeliness of the proposal is suggested by the fact that major elements of the coastal zone management constituency have recently taken steps in this direction. The American Petroleum Institute, for instance, has pointed to coastal management as one of the most important issues facing petroleum companies. Similarly, citizens groups such as the League of Women Voters also recognize a pressing need for greater public involvement in coastal problems. A spokeswoman for the environmental movement recently called for a national campaign to preserve America's shores in a controversial book, *The Thin Edge*.^{*} Concurrently, the Sierra Club has identified coastal zone management as a priority issue for the immediate future. Finally, in an attempt to draw together people interested in coastal zone management, the National Academy of Sciences may sponsor a conference in 1979.

While the Administration is emphasizing the significance of marine resources and tentatively approved a White House Conference on Oceans and Coasts, the Conference has been indefinitely postponed. The unexpectedly large turnout at the Coastal Zone 78 Conference demonstrates the great interest that coastal issues can generate. However, most participants at the \$100 registration fee convention were State and Federal government planners.[†] This highlights the importance of having meetings that will attract concerned citizens, interest groups, and local governmental officials. Coastal management programs are intended to provide an open and rational process for resolving conflicts. One format in which this could occur would be issue-specific conferences and meetings that strive for the middle ground among all parties in the

^{*} Anne W. Simon, *The Thin Edge: Man and Coasts in Crisis* (New York: Harper and Row Publishers, 1978).

[†] Surveys conducted by the conference sponsors and the Committee have documented this finding.

private and public sector. Appropriate preparatory and follow-up work is essential to the success of such sessions.

The kind of program outlined above would assist States in all phases of the coastal zone management program process. It would bring the issues to the attention of the public in States in the data collection phase of their program. In States further along in the management process, it would illustrate that the past uses of the coast are no longer adequate. For States in the implementation phase of coastal management, it would educate new policy-makers and encourage them to support the State program should Federal funds be reallocated. Finally, part of the program could provide a forum for Federal agencies to attempt to resolve their concerns about coastal zone management. This type of opportunity is needed in light of the material discussed in section three of this report. If Congress and the Nation desire careful management of coastal resources, the type of initiative discussed above is a mandatory first step—one which was unfortunately given low priority in most States when management plans were initially formulated.

SPECIFICITY OF COASTAL ZONE MANAGEMENT PROGRAMS

No State program is complete without a full awareness of the implications of its decisions for Federal consistency and national interest issues. Deliberations and consultations on these two important provisions of the national law are significant building blocks in establishing and maintaining a constituency for coastal zone management.

The Act requires that State programs fulfill various criteria in order to be eligible for program approval and continued Federal funding. Although the Federal consistency and national interest provisions are important departures in intergovernmental relations, the legislative history of the Act * reveals that there was little discussion or guidance concerning their actual use. The idea that Federal programs must be consistent with other governmental actions in a State is unusual in American federalism. Similarly, defining the national interest has always been far more controversial and difficult than simply asserting it.

It is not surprising, then, that several of the handful of States in the program implementation phase of coastal management are being sued over these issues. States presently in earlier stages of the manage-

* United States Congress, Senate, Committee on Commerce and National Ocean Policy Study, *Legislative History of the Coastal Zone Management Act of 1972, as Amended in 1974 and 1976 With A Section-By-Section Index*, 94th Congress, 2nd Session, 1976.

ment process are likely to encounter similar problems unless they are resolved. Data gathered by the Committee and recent lawsuits (and threats of court action) by environmentalists and oil companies in other states make this clear. These provisions of the Act, therefore, have created considerable uncertainty and tend to undermine public and private sector confidence in the coastal management process. Coastal States must develop programs that set forth objectives, policies and standards to guide public and private uses of lands and waters in the coastal zone. These programs must provide the basis for determining the consistency of Federal actions and provide for adequate consideration of the national interest in planning for, and siting of, facilities.

First, the very existence of the consistency requirement has stimulated Federal concern over State programs. In order to ensure that State programs consider Federal agency missions, Federal agencies must engage in effective, balanced consultation with States to develop programs that address competing national needs and agency missions. The National Oceanic and Atmospheric Administration's consistency regulations were developed through the use of an interagency, Office of Management and Budget sponsored review process. The regulations are, as a result, Administration directives which will facilitate enforcement. Controversy continues, however, as shown by the data presented earlier in this report and by the prohibition of the consistency provision from the California program by a Federal court pending a final judgment on its legality.

Concern has been expressed that it is difficult to certify that a given activity is consistent with a "vague" program. For this reason, the Coastal Zone Management Act requires that State plans contain specific land and water use provisions and identify what uses will be permitted and where they will be allowed. In addition, Federal consistency regulations require States to assist applicants with their certifications upon request. To date, there has been no occasion for the Secretary of Commerce to review an appeal by an applicant for a Federal permit or to mediate disputes between Federal agencies and the State as provided by law. This may be indicative of the fact that the provision encourages intergovernmental debate and coordination and that major disagreement will occur only if this consultation breaks down. It may also demonstrate that the viability of the concept has not yet been fully tested.

Since the Federal consistency requirement applies only to approved programs, a judgment on its workability cannot be rendered at this time. Only the State of Washington has had any significant experience in this area. Three major projects in Washington have been dealt with

in different ways. First, the Trident Submarine Base on Hood Canal did not comply with all of the provisions of the Washington coastal zone management program. However, as a national security project, it did comply to the maximum extent practicable as mandated in the Federal consistency regulations. Second, a proposal by the National Oceanic and Atmospheric Administration to build an office complex and ship mooring facility on Lake Washington was judged to be consistent with the State program. In both cases, the Federal agencies provided the State with consistency determinations as required by the Federal activity development project consistency provisions of the Coastal Zone Management Act. Finally, a proposal to expand an oil refinery and pier in Puget Sound raised the issue of Federal consistency. However, the conclusion of a Federal consistency determination was preempted by Congressional action. On the whole, controversial projects in the State subject to consistency have resulted in increased inter-governmental coordination and attempts to be consistent with the State program. Routine projects have generally been handled informally and expeditiously.

In order to fulfill the intent of the Act—balanced use of the coastal zone—State and Federal governments must insure that an adequate level of specificity and predictability is contained in programs now being approved. For example, given a State's program policies, there must be a high probability of predicting what kinds of uses are permitted in selected areas. *The Committee recommends that the Secretary take action to insure that an adequate level of specificity include but not be limited to:*

- (1) definition of performance standards regarding the specificity of State program elements (e.g. priority uses),
- (2) monitoring of consistency determinations over time as a gage of specificity, and
- (3) a review of Office of Coastal Zone Management procedures concerning Federal agency views, informal efforts to resolve differences, responses to serious disagreements, and the use of mediation as prescribed by the Act.*

The second concern about program specificity is that the State may not provide for an adequate consideration of the national interest in its program. Although the Act requires State programs to consider the

* In this area, the Office of Coastal Zone Management has indicated that it will act as ombudsman for States and Federal agencies in order to resolve conflicts prior to Secretarial level mediation. Success in this necessary, if difficult, role will be important in improving the Office's Federal relations.

national interest in the management of their coastal zone. NOAA regulations invite the broadest possible claims in the name of national interest while at the same time are virtually silent on what constitutes its adequate consideration.

Numerous and fruitless attempts have been made to define the national interest.* Recently, the Office of Coastal Zone Management has attempted to grapple with this problem by developing a series of functional national interest statements in selected subject areas based on official documents and existing statutes. This may be a step in the right direction, since the most pragmatic solution to the question, "What is the national interest?" is to recognize that there may be many short- and long-run national interests to balance. This balance is best achieved by competing interests presenting their views in an open, adversary process.

The nature and importance of short- and long-term national interests should be clarified in the coastal zone management process. States are presently expected to consult with Federal agencies to assure that their management programs do not arbitrarily exclude or unreasonably restrict the siting of facilities that serve the Nation. State contributions to the siting of facilities with national impact must be identified and procedures to deal with facility siting issues must be described. Finally, States are required to identify how their programs will consider national interests on a continuing basis in the future. Some of these problems are addressed by the revised program approval regulations published on March 1, 1978. Federal law does not now require a State to develop a comprehensive, long-term or site-specific program element for the location of facilities in the coastal zone.

While the provisions outlined above meet the requirements of the Act, the development of an affirmative response to the facility issue is needed. As a beginning, *the Committee recommends that a policy document be prepared by the Office of Coastal Zone Management that describes what constitutes the adequate consideration of the national interest.* That is, the methods and procedures by which a State makes this determination under the Coastal Zone Management Act needs to be clarified. There must be an identification of the kinds of issues or projects to be considered, the steps taken by States during their decision-making process, and the criteria used in assessing the national interest (e.g., alternative courses of action, nature of coastal dependency,

* See, for example, Center for Policy Alternatives, Massachusetts Institute of Technology, *A Report on the National Interest in the Coastal Zone*, (Washington, D.C.: Office of Coastal Zone Management, 1974).

and so on). If procedures like these do not prove to be sufficient, remedial legislation may be necessary.

Either way, it is evident that coastal zone management must have a substantial constituency among environmental, industrial, and other groups for these controversial problems to be resolved. A meaningful process for accommodating the many demands and for resolving the conflicts that occur among them is the greatest benefit a program like coastal zone management can provide. There is no question that such a program is superior to the confusion of single resource-oriented programs on the Nation's coasts. If management programs weigh and balance alternative demands upon coastal resources in a responsible manner, the opportunity exists to garner support among coastal users. One way to put consensus decision-making to the test and make coastal zone management a more affirmative program would be to direct the management process toward discrete areas or problems. For example, at Grey's Harbor, Washington, all concerned parties were brought into the process and most of them were satisfied with the result.

In short, a management program must establish objective policies and standards that can be used as a guide for public and private uses of coastal lands and waters. Criteria for determining the specificity of State programs need to be established. Adherence to the Federal consistency clause is necessary to insure that Federal agencies administer their activities in a manner consistent with the national interest provision of the program. Effective implementation of these provisions is necessary if public support for coastal zone management is expected.

FEDERAL FUNDING ISSUES

The final policy area that the Committee examined is the funding of coastal zone management programs. It was found that the availability of Federal money was crucial to the establishment of comprehensive coastal programs in nearly all States. Congress anticipated that coastal States would participate in the grant program and they have. More than \$63 million in Federal assistance will have been expended to develop programs by the end of this fiscal year. Approximately \$25 million in matching funds have been contributed by States and localities. For different reasons in different States (see section two), a Federal phasedown of funds would have a significant impact on State coastal programs.

The Committee (as well as the National Oceanic and Atmospheric Administration) recognizes the need to phase down program development funds. Nothing is more corrosive of public confidence than to have planners spend planning monies *ad infinitum*. However, the Coastal

Zone Management Act authorizes program development funds only through fiscal year 1979. Federal agencies and coastal user groups believe that to cut off funds for all States at that point would be an arbitrary action. *The Committee recommends that selected States that have made significant progress deserve an extension of preliminary approval of funds for a limited period such as two years beyond the current authority.* Original Congressional and Administration expectations that all eligible States would complete and implement programs in a short, designated time period have proven to be unrealistic. Coastal zone management is basically a political process that involves hard choices and social trade offs. This is what building a constituency means and that process takes years to accomplish. *It is the consensus of the Committee, however, that States not making meaningful progress should be dropped from the Federal program.* These States would include those that have not demonstrated concrete evidence of interest in coastal issues, lack urgent coastal problems, and do not have strong State leadership in coastal zone management. Those States that lack interest in coastal management, but have serious coastal problems should receive funding to deal with specific segments of their coasts.

Perhaps a more important dimension of the funding problem is the role of Federal support once State programs are in place and working. At present, the Act authorizes program implementation funding through September, 1980. If States have only one or two years of Federal support for which to plan, it may be difficult for the Office of Coastal Zone Management to insist on strong State programs during the approval process. Indeed, some States may simply drop out of the program rather than be subject to the national interest and other controversial provisions of the Act discussed earlier.

In light of the importance of Federal monies in establishing State programs and the need to extend that support, an abrupt cutoff of program implementation funds would be detrimental to the balanced use of coastal resources and clearly not in the national interest. Instead, *the Committee recommends a gradual phasedown of Federal matching monies for operating programs.* This would (1) permit States to assume greater responsibility for their coastal zone programs, (2) protect the Federal investment in coastal management, and (3) recognize that there is a continuing national interest in management of the shorelines of America. The matching Federal share might drop from the current 80 percent to 66 $\frac{2}{3}$ percent, 50 percent, and 33 $\frac{1}{3}$ percent over a 10-year period.

By that time, States will have assumed responsibility for activities in the national interest to warrant a continuing Federal match of 33 $\frac{1}{3}$ percent. While an indepth financial analysis is necessary, the Committee

recommends, in view of the national need for coastal zone management, that Federal funding not be phased out for operating programs. The exact phasedown schedules over the 10-year period for individual States would depend upon their ability to assume responsibility at the most appropriate time. If the purpose of the national law was to create an operational State coastal program, then States must be prepared to share a significant portion of the costs. If the State coastal management effort does not have enough support to obtain the necessary monies from its legislature, it is doubtful that it could engage in a meaningful, comprehensive program under any circumstances.

Based on the evidence discussed in this report, incentives for coastal management must be included during and after this phasedown period. Since the Federal share of administrative costs is to be reduced, *the Committee recommends that special assistance coastal programs be increased in size and number and tied to State participation in coastal zone management.*

Current examples of these programs are the Coastal Energy Impact Program (CEIP), estuarine sanctuary grants, and interstate and scientific research grants. However, in each case, serious problems now confront these programs. CEIP loan outlays have been circumscribed since the U. S. Treasury interest rate is currently higher than interest rates in the private capital market. The estuarine sanctuary program has been underfunded; the interstate and scientific research section of the Act has not been funded at all. These problems should be resolved if States are expected to take on greater funding of coastal management programs. Linking coastal zone management programs with other discretionary grant programs in the Department of Commerce and other agencies (e.g., deepwater ports, highways, recreation) also should be fully explored. Finally, since the protection and development of many ocean resources have direct impacts on coastal areas, oceans management activities should be joined with coastal zone management.

SUMMARY AND CONCLUSIONS

This section has examined the implications of the findings from site visits to States and interviews with Federal officials. The Committee has found that the existing support for coastal zone management is not sufficient in light of the demanding issues to be resolved. Accordingly, this report has made recommendations to the Secretary of Commerce regarding public participation, State coastal zone management program specificity, and future levels of Federal funding.

Taken together these recommendations constitute a basic implication of the findings in this report. That is, important changes should be

made in coastal zone management. One of the major appeals of coastal zone management in the early 1970's was that it promised rational management of resources as an alternative to conflicting regulations and successive court battles. Today, however, it appears that approval of the rational management process itself (i.e., Federal acceptance of State programs) is going to be tied up in litigation. It is unclear whether or not this represents "growing pains" characteristic of many new programs or if it illustrates more deep-seated problems in the management process. Either way, to continue on precisely the same course for the immediate future is not responsive administration.

If three "alternative futures" for the Federal program include maintenance of the status quo, important revisions in the existing approach, and mandatory coastal zone management, it is clear that the first and third options are not viable. On the one hand, while the existing process has made a significant start, the changes discussed here and elsewhere are necessary to build upon and improve the present state of coastal zone management. On the other hand, no constituency exists for a mandatory Federal program. Although this is the subject of a fuller analysis and a future report, *the Committee recommends an "evolutionary," middle-course approach to the future of coastal zone management as the most desirable and feasible at this time.*

Conclusion

It is evident that demands placed upon coastal resources will continue to increase in the decades ahead. Coastal zone management is an important tool for the protection and development of these resources. Public support is necessary to ensure that this management process works in an effective manner.

The difficulties in evaluating coastal zone management and its public support cannot be overestimated. Identifying program goals, formulating measures of performance, collecting data, and getting decision-makers to use the study results are problematic tasks. These problems are perhaps one reason why several evaluations of the Coastal Zone Management Act are now in progress.

The passage of the Federal Act represented a unique experiment in intergovernmental relations. An important element in that experiment has been the support that coastal zone management attempted to develop in the States and in Federal agencies. This support is the subject of the findings and recommendations contained in the body of the report.

In conclusion, the experiment has been at once promising and problematic. It has been promising since a very significant beginning has been made toward rational management of coastal resources. The Federal program has strengthened coastal management in States that had ongoing efforts and encouraged the establishment of new programs where no management effort previously existed.* The experiment has been problematic since coastal zone management has received limited funding, progressed slowly, and been challenged by elements of the very constituency it was designed to serve. Although an effective coastal zone

* An extensive compilation of State program accomplishments is presently being completed by the Office of Coastal Zone Management.

management program cannot be quickly and easily developed without controversy, experience to date suggests that important changes are needed to strengthen the Coastal Zone Management Act of 1972. This report as well as future Committee documents address that need.

Appendix

**THE COASTAL ZONE MANAGEMENT ACT OF 1972
AS AMENDED**



Public Law 92-583
92nd Congress, S. 3507
October 27, 1972

An Act

86 STAT., 1280

To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new title:

Marine Resources and Engineering Development Act of 1966, amendment.

80 Stat. 998;
84 Stat. 865.

TITLE III—MANAGEMENT OF THE COASTAL ZONE

SHORT TITLE

SEC. 301. This title may be cited as the "Coastal Zone Management Act of 1972".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that—

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

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

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

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

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

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

(g) 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; and

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

DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

DEFINITIONS

SEC. 304. For the purposes of this title—

(a) "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 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 the United States territorial sea. 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. 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.

(b) "Coastal waters" means (1) 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 (2) 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.

(c) "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, and American Samoa.

(d) "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.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting 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.

(f) "Secretary" means the Secretary of Commerce.

(g) "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, and standards to guide public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 307(f).

(i) "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).

MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

(b) Such management program shall include:

(1) an identification of the boundaries of the coastal zone subject to the management program;

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

(3) an inventory and designation of areas of particular concern within the coastal zone;

(4) an identification of the means by which the state proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

(c) The grants shall not exceed 66 $\frac{2}{3}$ per centum of the costs of the program in any one year and no state shall be eligible to receive more than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial grant to a coastal state, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program.

Limitation.

(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for

review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

Grants,
allocation.

(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however.* That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

80 Stat. 1262;
82 Stat. 208.
42 USC 3334.

(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

Expiration
date.

(h) The authority to make grants under this section shall expire on June 30, 1977.

ADMINISTRATIVE GRANTS

Limitation.

Sec. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66 $\frac{2}{3}$ per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

Allocation.

(b) Such grants shall be allocated to the 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 plan, population of the area, and other relevant factors: *Provided, however.* That no annual administrative grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

Program
requirements.

(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(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, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration

Cities and Metropolitan Development Act of 1966, 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 (5) of this subsection and with local governments, interstate agencies, regional agencies, and area-wide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

(3) The state has held public hearings in the development of the management program.

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

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

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

(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, area-wide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, 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—

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

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

(e) Prior to granting approval, the Secretary shall also find that the program provides:

(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

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

(B) Direct state land and water use planning and regulation; or

(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.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

80 Stat. 1262;
82 Stat. 209.
42 USC 3334.

(f) With the approval of the Secretary, a state may allocate to a local government, an area-wide 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 the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

Program
modification.

(g) The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the state under the program as amended.

Segmental
development.

(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

INTERAGENCY COORDINATION AND COOPERATION

Sec. 307. (a) 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) 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. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(c)(1) Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(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 approved state management programs.

Certification.

(3) 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 affecting land or water uses in 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 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.

Notification.

(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting 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 Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with 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.

42 USC 4231.

(e) 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) 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 (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

ante, p. 816.
81 Stat. 485;
84 Stat. 1676.
42 USC 1857
note.

(g) 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 pro-

gram, 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.

PUBLIC HEARINGS

SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

REVIEW OF PERFORMANCE

SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

Financial assistance, termination.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

RECORDS

SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

ADVISORY COMMITTEE

Coastal Zone Management Advisory Committee, establishment, membership.

SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

Compensation, travel expenses.

(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their

homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

80 Stat. 499;
83 Stat. 190.

ESTUARINE SANCTUARIES

SEC. 312. The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.

Grants.

Federal share.

ANNUAL REPORT

SEC. 313. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report 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 or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) 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; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) 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; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

(b) 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.

RULES AND REGULATIONS

SEC. 314. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

80 Stat. 383.

AUTHORIZATION OF APPROPRIATIONS

SEC. 315. (a) There are authorized to be appropriated—

(1) the sum of \$9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;

(2) such sums, not to exceed \$30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, as may be necessary, for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed \$3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.

Approved October 27, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 92-1049 accompanying H.R. 14146 (Comm. on Merchant Marine and Fisheries) and No. 92-1544 (Comm. of Conference).

SENATE REPORT No. 92-753 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 118 (1972):

Apr. 25, considered and passed Senate.

Aug. 2, considered and passed House, amended, in lieu of H.R. 14146.

Oct. 12, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 8, No. 44:

Oct. 28, Presidential statement.





Public Law 94-370
94th Congress, S. 586
July 26, 1976

An Act

To improve coastal zone management in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coastal Zone Management Act Amendments of 1976".

Coastal Zone
Management Act
Amendments of
1976.
16 USC 1451
note.

SEC. 2. FINDINGS.

Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended—

- (1) by inserting "ecological," immediately after "recreational," in subsection (b);
- (2) by striking out—
 - (A) the semicolon at the end of subsections (a), (b), (c), (d), (e), and (f), respectively, and
 - (B) "; and" at the end of subsection (g),and inserting in lieu of such matter at each such place a period; and
- (3) by inserting immediately after subsection (h) the following:

"(i) 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."

SEC. 3. DEFINITIONS.

Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended—

- (1) by redesignating paragraph (a) as paragraph (1), and by amending the first sentence of such paragraph (1) (as so redesignated)—
 - (A) by striking out "Coastal" and inserting in lieu thereof "The term 'coastal'"; and
 - (B) by inserting immediately after "and includes" the following: "islands,"
- (2) by redesignating paragraph (b) as paragraph (2), and by amending such paragraph (2) (as so redesignated)—
 - (A) by striking out "Coastal" and inserting in lieu thereof "The term 'coastal'"; and
 - (B) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;
- (3) by striking out "(c) 'Coastal'" and inserting in lieu thereof "(3) The term 'coastal'";
- (4) by inserting immediately before paragraph (d) thereof the following:

"(4) 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 deep-water 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.

“(5) The term ‘energy facilities’ means any equipment or facility which is or will be used primarily—

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

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

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

(5) by striking out “(d) ‘Estuary’” and inserting in lieu thereof

“(6) The term ‘estuary’”;

(6) by redesignating paragraph (e) as paragraph (7) and by amending such paragraph (7) (as so redesignated)—

(A) by striking out “‘Estuarine’” and inserting in lieu thereof “The term ‘estuarine’”, and

(B) by striking out “estuary, adjoining transitional areas, and adjacent uplands, constituting” and inserting in lieu thereof the following: “estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes”;

(7) by striking out paragraph (f) and inserting in lieu thereof the following:

“(8) The term ‘Fund’ means the Coastal Energy Impact Fund established by section 308(h).

Post, p. 1019.

“(9) 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).

Post, p. 1018.

“(10) 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.”;

(8) by striking out "(g) 'Management'" and inserting in lieu thereof "(11) The term 'management'";

(9) by inserting immediately after paragraph (11) (as redesignated by paragraph (8) of this section) the following:

"(12) The term 'outer Continental Shelf energy activity' means any exploration for, or any development or production of, oil or natural gas from the outer Continental Shelf (as defined in section 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 energy facilities directly required by such exploration, development, or production.

"(13) 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.

"(14) 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.

"(15) The term 'Secretary' means the Secretary of Commerce.";

(10) by striking out "(h) 'Water'" and inserting in lieu thereof

"(16) The term 'water'; and

(11) by striking out paragraph (i).

SEC. 4. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is amended to read as follows:

"MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"SEC. 305. (a) The Secretary may make grants to any coastal state—

"(1) under subsection (c) for the purpose of assisting such state in the development of a management program for the land and water resources of its coastal zone; and

"(2) under subsection (d) for the purpose of assisting such state in the completion of the development, and the initial implementation, of its management program before such state qualifies for administrative grants under section 306.

"(b) The management program for each coastal state shall include each of the following requirements:

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

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

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

"(4) An identification of the means by which the state proposes to exert control over the land uses and water uses referred to in

Post, p. 1017.
Requirements.

paragraph (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions.

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

"(6) 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.

"(7) 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.

"(8) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities.

"(9) A planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

No management program is required to meet the requirements in paragraphs (7), (8), and (9) before October 1, 1978.

"(c) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a) (1) if such state reasonably demonstrates to the satisfaction of the Secretary that such 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 80 per centum of such state's costs for such purposes in any one year. No coastal state is eligible to receive more than four grants pursuant to this subsection. After the initial grant is made to any coastal state pursuant to this subsection, no subsequent grant shall be made to such state pursuant to this subsection unless the Secretary finds that such state is satisfactorily developing its management program.

"(d) (1) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a) (2) if the Secretary finds that such state meets the eligibility requirements set forth in paragraph (2). The amount of any such grant shall not exceed 80 per centum of the costs for such purposes in any one year.

"(2) A coastal state is eligible to receive grants under this subsection if it has—

"(A) developed a management program which—

"(i) is in compliance with the rules and regulations promulgated to carry out subsection (b), but

"(ii) has not yet been approved by the Secretary under section 306;

"(B) specifically identified, after consultation with the Secretary, any deficiency in such program which makes it ineligible for approval by the Secretary pursuant to section 306, and has established a reasonable time schedule during which it can remedy any such deficiency;

"(C) specified the purposes for which any such grant will be used;

"(D) taken or is taking adequate steps to meet any requirement under section 306 or 307 which involves any Federal official or agency; and

Post, p. 1017.

Eligibility.

Post, p. 1018.

“(E) complied with any other requirement which the Secretary, by rules and regulations, prescribes as being necessary and appropriate to carry out the purposes of this subsection.

“(3) No management program for which grants are made under this subsection shall be considered an approved program for purposes of section 307.

“(e) Grants under this section shall be made to, and allocated among, the coastal states pursuant to rules and regulations promulgated by the Secretary; except that—

“(1) no grant shall be made under this section in an amount which is more than 10 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary may waive this limitation in the case of any coastal state which is eligible for grants under subsection (d); and

“(2) no grant shall be made under this section in an amount which is less than 1 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary shall waive this limitation in the case of any coastal state which requests such a waiver.

“(f) The amount of any grant (or portion thereof) made under this section which is not obligated by the coastal state concerned during the fiscal year for which it was first authorized to be obligated by such state, or during the fiscal year immediately following, shall revert to the Secretary who shall add such amount to the funds available for grants under this section.

“(g) With the approval of the Secretary, any coastal state may allocate to any local government, to any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to any regional agency, or to any interstate agency, a portion of any grant received by it under this section for the purpose of carrying out the provisions of this section.

“(h) 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. Whenever the Secretary approves the management program of any coastal state under section 306, such state thereafter—

“(1) shall not be eligible for grants under this section; except that such state may receive grants under subsection (c) in order to comply with the requirements of paragraphs (7), (8), and (9) of subsection (b); and

“(2) shall be eligible for grants under section 306.

“(i) The authority to make grants under this section shall expire on September 30, 1979.”

SEC. 5. ADMINISTRATIVE GRANTS.

Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—

(1) by amending subsection (a) to read as follows:

“(a) The Secretary may make a grant annually to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary (1) finds that such program meets the requirements of section 305(b), and (2) approves such program in accordance with subsections (c), (d), and (e).”;

(2) by amending subsection (c)(2)(B) by striking out the period at the end thereof and inserting in lieu thereof the following: “; except that the Secretary shall not find any mechanism to be ‘effective’ for purposes of this subparagraph unless it includes each of the following requirements:

Post, p. 1018.
Rules and
regulations.

Infra.

Expiration
date.

Ante, p. 1015.

Notice.

"(i) Such management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, to send a notice of such management program decision to any local government whose zoning authority is affected thereby.

"(ii) Any such notice shall provide that such local government may, within the 30-day period commencing on the date of receipt of such notice, submit to the management agency written comments on such management program decision, and any recommendation for alternatives thereto, if no action is taken during such period which would conflict or interfere with such management program decision, unless such local government waives its right to comment.

"(iii) Such management agency, if any such comments are submitted to it, with such 30 day period, by any local government—

"(I) is required to consider any such comments.

"(II) is authorized, in its discretion, to hold a public hearing on such comments, and

"(III) may not take any action within such 30-day period to implement the management program decision, whether or not modified on the basis of such comments.";

(3) by amending subsection (c) (8) to read as follows--

"(8) The management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such consideration to any applicable interstate energy plan or program.";

(4) by amending subsection (g) to read as follows:

"(g) Any coastal state may amend or modify the management program which it has submitted and which has been approved by the Secretary under this section, pursuant to the required procedures described in subsection (c). Except with respect to any such amendment which is made before October 1, 1978, for the purpose of complying with the requirements of paragraphs (7), (8), and (9) of section 305(b), no grant shall be made under this section to any coastal state after the date of such an amendment or modification, until the Secretary approves such amendment or modification."

Ante, p. 1015.

SEC. 6. CONSISTENCY AND MEDIATION.

Section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) is amended—

(1) by striking out "INTERAGENCY" in the title of such section;

(2) by striking out the last sentence of subsection (b);

(3) by amending subsection (c) (3) by inserting "(A)" immediately after "(3)", and by adding at the end thereof the following:

"(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 use or water use in the coastal zone of such state, attach to such

Ante, p. 1017.

plan a certification that each activity which is described in detail in such plan complies with 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); 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.”; and

(4) by adding at the end thereof the following new subsection:

“(h) 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.”.

SEC. 7. COASTAL ENERGY IMPACT PROGRAM

The Coastal Zone Management Act of 1972 is further amended by redesignating sections 308 through 315 as sections 311 through 318, respectively; and by inserting immediately after section 307 the following:

“COASTAL ENERGY IMPACT PROGRAM

“**SEC. 308. (a) (1)** The Secretary shall administer and coordinate, as part of the coastal zone management activities of the Federal Government provided for under this title, a coastal energy impact program. Such program shall consist of the provision of financial

Ante, p. 1015.

Ante, p. 1017.

16 USC 1457-1464.

16 USC 1456a.

assistance to meet the needs of coastal states and local governments in such states resulting from specified activities involving energy development. Such assistance, which includes—

“(A) grants, under subsection (b), to coastal states for the purposes set forth in subsection (b)(4) with respect to consequences resulting from the energy activities specified therein;

“(B) grants, under subsection (c), to coastal states for study of, and planning for, consequences relating to new or expanded energy facilities in, or which significantly affect, the coastal zone;

“(C) loans, under subsection (d)(1), to coastal states and units of general purpose local government to assist such states and units to provide new or improved public facilities or public services which are required as a result of coastal energy activity;

“(D) guarantees, under subsection (d)(2) and subject to the provisions of subsection (f), of bonds or other evidences of indebtedness issued by coastal states and units of general purpose local government for the purpose of providing new or improved public facilities or public services which are required as a result of coastal energy activity;

“(E) grants or other assistance, under subsection (d)(3), to coastal states and units of general purpose local government to enable such states and units to meet obligations under loans or guarantees under subsection (d)(1) or (2) which they are unable to meet as they mature, for reasons specified in subsection (d)(3); and

“(F) grants, under subsection (d)(4), to coastal states which have suffered, are suffering, or will suffer any unavoidable loss of a valuable environmental or recreational resource;

shall be provided, administered, and coordinated by the Secretary in accordance with the provisions of this section and under the rules and regulations required to be promulgated pursuant to paragraph (2). Any such financial assistance shall be subject to audit under section 313.

Post, p. 1030.
Rules and regulations.
16 USC 1463.

“(2) The Secretary shall promulgate, in accordance with section 317, such rules and regulations (including, but not limited to, those required under subsection (e)) as may be necessary and appropriate to carry out the provisions of this section.

“(b)(1) The Secretary shall make grants annually to coastal states, in accordance with the provisions of this subsection.

Calculations.

“(2) The amounts granted to coastal states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

“(A) An amount which bears, to one-third of the amount appropriated for the purpose of funding grants under this subsection for such fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in such preceding year.

“(B) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal

Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.

“(C) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the coastal states in such year.

“(D) An amount which bears, to one-third of the amount appropriated for such purpose for such fiscal year, the same ratio that the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities.

“(3) (A) The Secretary shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each Federal department, agency, and instrumentality shall provide to the Secretary such assistance in collecting and evaluating relevant information as the Secretary may request. The Secretary shall request the assistance of any appropriate state agency in collecting and evaluating such information.

“(B) For purposes of making calculations under paragraph (2), outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

“(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

“(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by an interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and the Contiguous Zone, and extended on the basis of such principles.

“(iii) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

“(C) For purposes of making calculations under this subsection, the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included within the fiscal year ending June 30, 1976.

"(4) Each coastal state shall use the proceeds of grants received by it under this subsection for the following purposes (except that priority shall be given to the use of such proceeds for the purpose set forth in subparagraph (A)):

"(A) The retirement of state and local bonds, if any, which are guaranteed under subsection (d)(2); except that, if the amount of such grants is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

"(B) The study of, planning for, development of, and the carrying out of projects and programs in such state which are—

"(i) necessary, because of the unavailability of adequate financing under any other subsection, to provide new or improved public facilities and public services which are required as a direct result of new or expanded outer Continental Shelf energy activity; and

"(ii) of a type approved by the Secretary as eligible for grants under this paragraph, except that the Secretary may not disapprove any project or program for highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care.

"(C) The prevention, reduction, or amelioration of any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource if such loss results from coastal energy activity.

"(5) The Secretary, in a timely manner, shall determine that each coastal state has expended or committed, and may determine that such state will expend or commit, grants which such state has received under this subsection in accordance with the purposes set forth in paragraph (4). The United States shall be entitled to recover from any coastal state an amount equal to any portion of any such grant received by such state under this subsection which—

"(A) is not expended or committed by such state before the close of the fiscal year immediately following the fiscal year in which the grant was disbursed, or

"(B) is expended or committed by such state for any purpose other than a purpose set forth in paragraph (4).

Before disbursing the proceeds of any grant under this subsection to any coastal state, the Secretary shall require such state to provide adequate assurances of being able to return to the United States any amounts to which the preceding sentence may apply.

"(c) The Secretary shall make grants to any coastal state if the Secretary finds that the coastal zone of such state is being, or is likely to be, significantly affected by the siting, construction, expansion, or operation of new or expanded energy facilities. Such grants shall be used for the study of, and planning for (including, but not limited to, the application of the planning process included in a management program pursuant to section 305(b)(8)) any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such state's coastal zone as a result of the siting, construction, expansion, or operation of such new or expanded energy facilities. The amount of any such grant shall not exceed 80 per centum of the cost of such study and planning.

"(d) (1) The Secretary shall make loans to any coastal state and to any unit of general purpose local government to assist such state or unit to provide new or improved public facilities or public services, or

Acte, p. 1015.

Loans.

both, which are required as a result of coastal energy activity. Such loans shall be made solely pursuant to this title, and no such loan shall require as a condition thereof that any such state or unit pledge its full faith and credit to the repayment thereof. No loan shall be made under this paragraph after September 30, 1986.

"(2) The Secretary shall, subject to the provisions of subsection (f), guarantee, or enter into commitments to guarantee, the payment of interest on, and the principal amount of, any bond or other evidence of indebtedness if it is issued by a coastal state or a unit of general purpose local government for the purpose of providing new or improved public facilities or public services, or both, which are required as a result of a coastal energy activity.

"(3) If the Secretary finds that any coastal state or unit of general purpose local government is unable to meet its obligations pursuant to a loan or guarantee made under paragraph (1) or (2) 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 pursuant to subsection (e)(3), take any of the following actions:

"(A) Modify appropriately the terms and conditions of such loan or guarantee.

"(B) Refinance such loan.

"(C) Make a supplemental loan to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

"(D) Make a grant to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

Notwithstanding the preceding sentence, if the Secretary—

"(i) has taken action under subparagraph (A), (B), or (C) with respect to any loan or guarantee made under paragraph (1) or (2), and

"(ii) finds that additional action under subparagraph (A), (B), or (C) will not enable such state or unit to meet, within a reasonable time, its obligations under such loan or guarantee and any additional obligations related to such loan or guarantee; the Secretary shall make a grant or grants under subparagraph (D) to such state or unit in an amount sufficient to enable such state or unit to meet such outstanding obligations.

"(4) The Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from coastal energy activity, if the Secretary finds that such state has not received amounts under subsection (b) which are sufficient to prevent, reduce, or ameliorate such loss.

"(e) Rules and regulations with respect to the following matters shall be promulgated by the Secretary as soon as practicable, but not later than 270 days after the date of the enactment of this section:

"(1) A formula and procedures for apportioning equitably, among the coastal states, the amounts which are available for the provision of financial assistance under subsection (d). Such formula shall be based on, and limited to, the following factors:

"(A) The number of additional individuals who are expected to become employed in new or expanded coastal

Rules and regulations.

Financial assistance, formula and procedures.

energy activity, and the related new population, who reside in the respective coastal states.

“(B) The standardized unit costs (as determined by the Secretary by rule), in the relevant regions of such states, for new or improved public facilities and public services which are required as a result of such expected employment and the related new population.

“(2) Criteria under which the Secretary shall review each coastal state's compliance with the requirements of subsection (g) (2).

Criteria and procedures for repayment.

“(3) Criteria and procedures for evaluating the extent to which any loan or guarantee under subsection (d) (1) or (2) which is applied for by any coastal state or unit of general purpose local government can be repaid through its ordinary methods and rates for generating tax revenues. Such procedures shall require such state or unit to submit to the Secretary such information which is specified by the Secretary to be necessary for such evaluation, including, but not limited to—

“(A) a statement as to the number of additional individuals who are expected to become employed in the new or expanded coastal energy activity involved, and the related new population, who reside in such state or unit;

“(B) a description, and the estimated costs, of the new or improved public facilities or public services needed or likely to be needed as a result of such expected employment and related new population;

“(C) a projection of such state's or unit's estimated tax receipts during such reasonable time thereafter, not to exceed 30 years, which will be available for the repayment of such loan or guarantee; and

“(D) a proposed repayment schedule.

The procedures required by this paragraph shall also provide for the periodic verification, review, and modification (if necessary) by the Secretary of the information or other material required to be submitted pursuant to this paragraph.

“(4) Requirements, terms, and conditions (which may include the posting of security) which shall be imposed by the Secretary, in connection with loans and guarantees made under subsections (d) (1) and (2), in order to assure repayment within the time fixed, to assure that the proceeds thereof may not be used to provide public services for an unreasonable length of time, and otherwise to protect the financial interests of the United States.

Interest rate.

“(5) Criteria under which the Secretary shall establish rates of interest on loans made under subsections (d) (1) and (3). Such rates shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loans.

In developing rules and regulations under this subsection, the Secretary shall, to the extent practicable, request the views of, or consult with, appropriate persons regarding impacts resulting from coastal energy activity.

“(f) (1) Bonds or other evidences of indebtedness guaranteed under subsection (d) (2) shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—

“(A) no guarantee shall be made unless the indebtedness involved will be completely amortized within a reasonable period, not to exceed 30 years;

“(B) no guarantee shall be made unless the Secretary determines that such bonds or other evidences of indebtedness will—

“(i) be issued only to investors who meet the requirements prescribed by the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

“(ii) bear interest at a rate found not to be excessive by the Secretary; and

“(iii) contain, or be subject to, repayment, maturity, and other provisions which are satisfactory to the Secretary;

“(C) the approval of the Secretary of the Treasury shall be required with respect to any such guarantee, unless the Secretary of the Treasury waives such approval; and

“(D) no guarantee shall be made after September 30, 1986.

“(2) The full faith and credit of the United States is pledged to the payment, under paragraph (5), of any default on any indebtedness guaranteed under subsection (d) (2). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation, except for fraud or material misrepresentation on the part of the holder, or known to the holder at the time acquired.

“(3) The Secretary shall prescribe and collect fees in connection with guarantees made under subsection (d) (2). These fees may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs pertaining to such guarantees.

Fees.

“(4) The interest paid on any obligation which is guaranteed under subsection (d) (2) and which is received by the purchaser thereof (or the purchaser's successor in interest), shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954. The Secretary may pay out of the Fund to the coastal state or the unit of general purpose local government issuing such obligations not more than such portion of the interest on such obligations as exceeds the amount of interest that would be due at a comparable rate determined for loans made under subsection (d) (1).

26 USC 1 et
seq.

“(5) (A) Payments required to be made as a result of any guarantee made under subsection (d) (2) shall be made by the Secretary from sums appropriated to the Fund or from moneys obtained from the Secretary of the Treasury pursuant to paragraph (6).

“(B) If there is a default by a coastal state or unit of general purpose local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary under subsection (d) (2), any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due such holder, unless the Secretary finds that there was no default by such state or unit or that such default has been remedied.

“(C) If the Secretary makes a payment to a holder under subparagraph (B), the Secretary shall—

“(i) have all of the rights granted to the Secretary or the United States by law or by agreement with the obligor; and

“(ii) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement between such holder and the obligor.

Such rights shall include, but not be limited to, a right of reimbursement to the United States against the coastal state or unit of general purpose local government for which the payment was made for the amount of such payment plus interest at the prevailing current rate as determined by the Secretary. If such coastal state, or the coastal state in which such unit is located, is due to receive any amount under subsection (b), the Secretary shall, in lieu of paying such amount to such state, deposit such amount in the Fund until such right of reimbursement has been satisfied. The Secretary may accept, in complete or partial satisfaction of any such rights, a conveyance of property or interests therein. Any property so obtained by the Secretary may be completed, maintained, operated, held, rented, sold, or otherwise dealt with or disposed of on such terms or conditions as the Secretary prescribes or approves. If, in any case, the sum received through the sale of such property is greater than the amount paid to the holder under subparagraph (D) plus costs, the Secretary shall pay any such excess to the obligor.

“(D) The Attorney General shall, upon the request of the Secretary, take such action as may be appropriate to enforce any right accruing to the Secretary or the United States as a result of the making of any guarantee under subsection (d) (2). Any sums received through any sale under subparagraph (C) or recovered pursuant to this subparagraph shall be paid into the Fund.

“(6) If the moneys available to the Secretary are not sufficient to pay any amount which the Secretary is obligated to pay under paragraph (5), the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. Any sums received by the Secretary through such issuance shall be deposited in the Fund. The Secretary of the Treasury shall purchase any notes or other obligations issued under this paragraph, and for this purpose such Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under that Act are extended to include any purchase of notes or other obligations issued under this paragraph. The Secretary of the Treasury may at any time sell any of the notes or other obligations so acquired under this paragraph. All redemptions, purchases, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

31 USC 774.

“(g) (1) No coastal state is eligible to receive any financial assistance under this section unless such state—

“(A) has a management program which has been approved under section 306;

“(B) is receiving a grant under section 305(c) or (d); or

“(C) is, in the judgment of the Secretary, making satisfactory progress toward the development of a management program which is consistent with the policies set forth in section 303.

Ante, p. 1017.

Ante, p. 1015.

16 USC 1433.

"(2) Each coastal state shall, to the maximum extent practicable, provide that financial assistance provided under this section be apportioned, allocated, and granted to units of local government within such state on a basis which is proportional to the extent to which such units need such assistance.

"(h) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of carrying out subsections (c) and (d). The Fund shall consist of—

Coastal Energy
Impact Fund.
Establishment.

"(1) any sums appropriated to the Fund;

"(2) payments of principal and interest received under any loan made under subsection (d) (1);

"(3) any fees received in connection with any guarantee made under subsection (d) (2); and

"(4) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

All payments made by the Secretary to carry out the provisions of subsections (c), (d), and (f) (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(i) The Secretary shall not intercede in any land use or water use decision of any coastal state with respect to the siting of any energy facility or public facility by making siting in a particular location a prerequisite to, or a condition of, financial assistance under this section.

"(j) The Secretary may evaluate, and report to the Congress, on the efforts of the coastal states and units of local government therein to reduce or ameliorate adverse consequences resulting from coastal energy activity and on the extent to which such efforts involve adequate consideration of alternative sites.

"(k) To the extent that Federal funds are available under, or pursuant to, any other law with respect to—

"(1) study and planning for which financial assistance may be provided under subsection (b) (4) (B) and (c), or

"(2) public facilities and public services for which financial assistance may be provided under subsection (b) (4) (B) and (d), the Secretary shall, to the extent practicable, administer such subsections—

"(A) on the basis that the financial assistance shall be in addition to, and not in lieu of, any Federal funds which any coastal state or unit of general purpose local government may obtain under any other law; and

"(B) to avoid duplication.

"(1) As used in this section—

"(1) The term 'retirement', when used with respect to bonds, means the redemption in full and the withdrawal from circulation of those which cannot be repaid by the issuing jurisdiction in accordance with the appropriate repayment schedule.

"(2) The term 'unavoidable', when used with respect to a loss of any valuable environmental or recreational resource, means a loss, in whole or in part—

"(A) the costs of prevention, reduction, or amelioration of which cannot be directly or indirectly attributed to, or assessed against, any identifiable person; and

Definitions.

“(B) cannot be paid for with funds which are available under, or pursuant to, any provision of Federal law other than this section.

“(3) The term ‘unit of general purpose local government’ means any political subdivision of any coastal state or any special entity created by such a state or subdivision 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 establish and collect user fees, and (B) provides any public facility or public service which is financed in whole or part by taxes or user fees.”.

SEC. 8. INTERSTATE GRANTS.

The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 308 (as added by section 7 of this Act) the following:

“INTERSTATE GRANTS

16 USC 1456b.

“Sec. 309. (a) The coastal states are encouraged to give high priority—

“(1) to coordinating state coastal zone planning, policies, and programs with respect to contiguous areas of such states; and

“(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas.

Such coordination, study, planning, and implementation may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

Ante, p. 1015,
1017.
Agreements or
compacts.

“(b) The consent of the Congress is hereby given to two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

“(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

“(2) establishing executive instrumentalities or agencies which such states deem desirable for the effective implementation of such agreements or compacts.

Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by the Congress.

“(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to adopt a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Administrator of the Federal Energy Administration, or their designated representatives, shall participate *ex officio* on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

“(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to—

"(1) coordinate state coastal zone planning, policies, and programs with respect to contiguous areas of the states involved;

"(2) study, plan, and implement unified coastal zone policies with respect to such areas; and

"(3) establish an effective mechanism, and adopt a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity."

SEC. 9. RESEARCH AND TECHNICAL ASSISTANCE.

The Coastal Management Act of 1972 is further amended by adding immediately after section 309 (as added by section 8 of this Act) the following:

"RESEARCH AND TECHNICAL ASSISTANCE FOR COASTAL ZONE MANAGEMENT"

"SEC. 310. (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of management programs. 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, but not limited to, 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 training 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.

16 USC 1456c.

"(b) The Secretary may make grants to coastal states to assist such states in carrying out research, studies, and training required with respect to coastal zone management. The amount of any grant made under this subsection shall not exceed 80 per centum of the cost of such research, studies, and training.

Contracts or other arrangements.

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

"(2) The Secretary shall make the results of research conducted pursuant to this section available to any interested person."

SEC. 10. REVIEW OF PERFORMANCE.

Section 312(a) of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1458(a)) is amended to read as follows:

"(a) The Secretary shall conduct a continuing review of—

"(1) the management programs of the coastal states and the performance of such states with respect to coastal zone management; and

"(2) the coastal energy impact program provided for under section 308."

Ante, p. 1017.

SEC. 11. AUDIT OF TRANSACTIONS.

Section 313 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1459), is amended—

(1) by inserting "AND AUDIT" after "RECORDS" in the title of such section;

(2) by amending subsection (a)—

(A) by inserting immediately after "grant under this title" the following: "or of financial assistance under section 308"; and

(B) by inserting after "received under the grant" the following: "and of the proceeds of such assistance"; and

(3) by amending subsection (b) to read as follows:

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

"(1) after any grant is made under this title or any financial assistance is provided under section 308(d); and

"(2) until the expiration of 3 years after—

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

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

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

Ante, p. 1017.

SEC. 12. ACQUISITION OF ACCESS TO PUBLIC BEACHES AND OTHER PUBLIC COASTAL AREAS.

Section 315 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1461), is amended to read as follows:

"ESTUARINE SANCTUARIES AND BEACH ACCESS

"SEC. 315. The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal state for the purpose of—

"(1) acquiring, developing, or operating estuarine sanctuaries, to serve as natural field laboratories in which to study and gather data on the natural and human processes occurring within the estuaries of the coastal zone; and

"(2) acquiring lands to provide for access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for the preservation of islands.

The amount of any such grant shall not exceed 50 per centum of the cost of the project involved; except that, in the case of acquisition of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed \$2,000,000."

SEC. 13. ANNUAL REPORT.

The second sentence of section 316(a) of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1462(a)), is amended by striking out "and (9)" and inserting in lieu thereof "(12)"; and by inserting immediately after clause (8) the following: "(9) 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; (10) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; (11) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and”.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

Section 318 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1464), is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“Sec. 318. (a) There are authorized to be appropriated to the Secretary—

“(1) such sums, not to exceed \$20,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, respectively, as may be necessary for grants under section 305, to remain available until expended;

“(2) such sums, not to exceed \$50,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 306, to remain available until expended;

“(3) such sums, not to exceed \$50,000,000 for each of the 8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984, as may be necessary for grants under section 308(b);

“(4) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 309, to remain available until expended;

“(5) such sums, not to exceed \$10,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for financial assistance under section 310, of which 50 per centum shall be for financial assistance under section 310(a) and 50 per centum shall be for financial assistance under section 310(b), to remain available until expended;

“(6) such sums, not to exceed \$6,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(1), to remain available until expended;

“(7) such sums, not to exceed \$25,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(2), to remain available until expended; and

“(8) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for administrative expenses incident to the administration of this title.

“(b) There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed \$800,000,000, for the purposes of

Ante, p. 1017.

Ante, p. 1028.

Ante, p. 1017.

carrying out the provisions of section 308, other than subsection (b), of which not to exceed \$50,000,000 shall be for purposes of subsections (c) and (d) (4) of such section.

Ante, p. 1015,
1017, 1028,
1029.

“(c) Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 305, 306, 309, or 310.”.

SEC. 15. ADMINISTRATION.

15 USC 1511a.

(a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(140) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.”.

15 USC 1511a
note.

(c) The Secretary may, to carry out the provisions of the amendments made by this Act, establish, and fix the compensation for, four new positions without regard to the provision of chapter 51 of title 5, United States Code, at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. Any such appointment may, at the discretion of the Secretary, be made without regard to the provisions of such title 5 governing appointments in the competitive service.

5 USC 5332 note.

SEC. 16. SHELLFISH SANITATION REGULATIONS.

16 USC 1462
note.

(a) The Secretary of Commerce shall—

- (1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and
- (2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

Report to
Congress.

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

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

Analysis,
publication.

Approved July 26, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-878 accompanying H. R. 3981 (Comm. on Merchant Marine and Fisheries) and No. 94-1298 (Comm. of Conference).

SENATE REPORTS: No. 94-277 (Comm. on Commerce) and No. 94-987 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 16, considered and passed Senate.

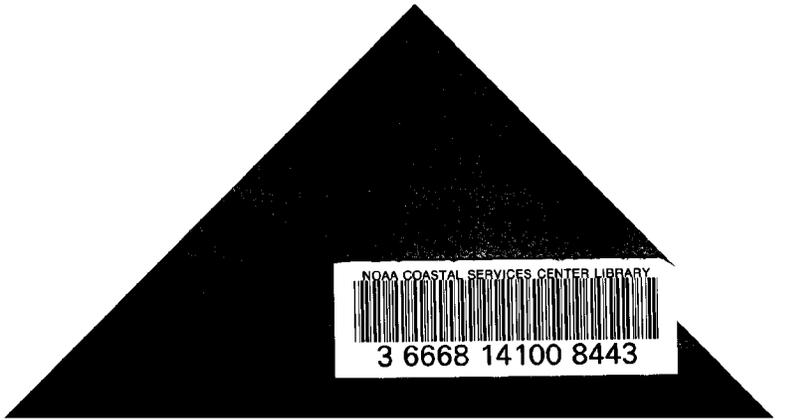
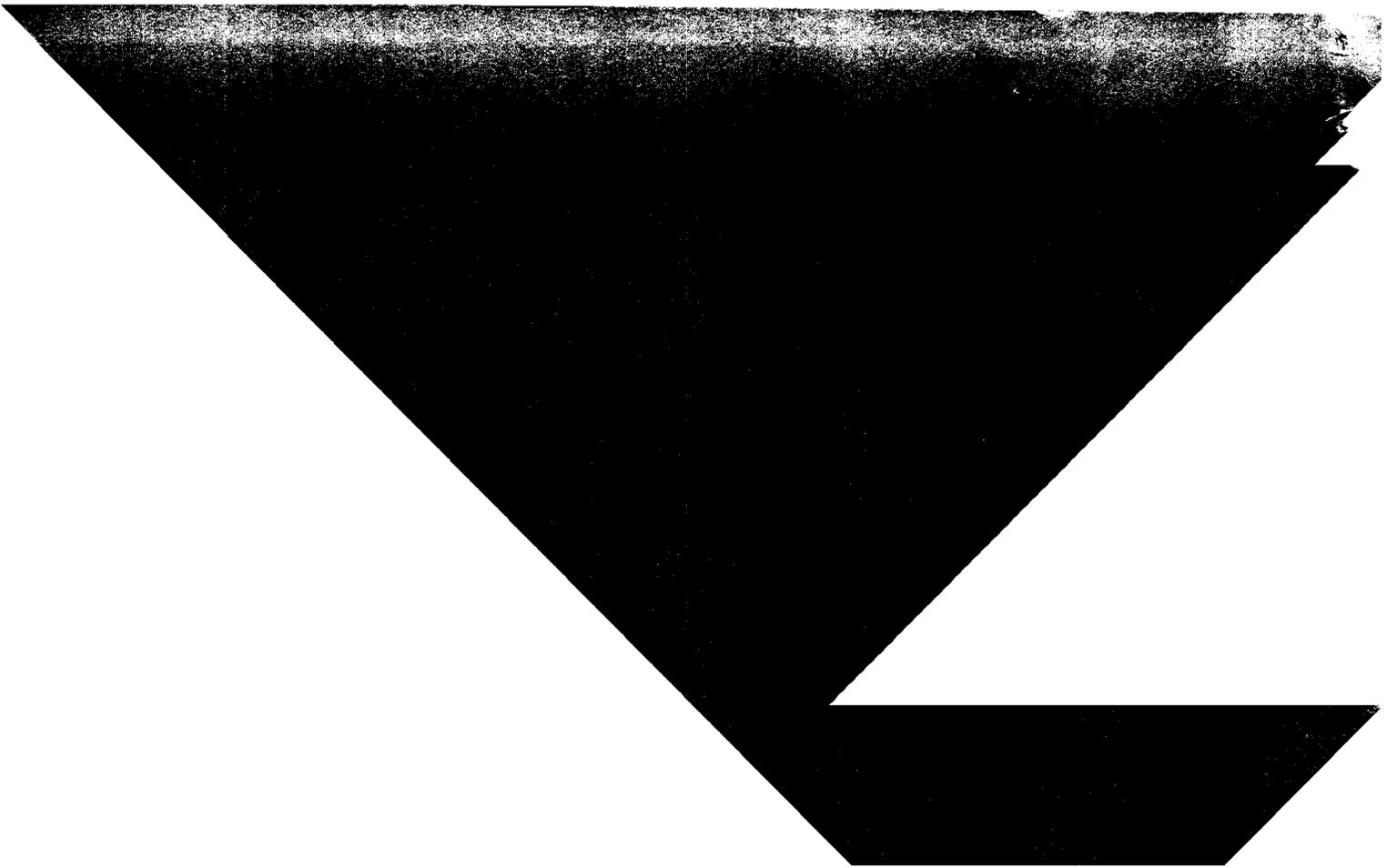
Vol. 122 (1976): Mar. 11, considered and passed House, amended, in lieu of H. R. 3981.

June 29, Senate agreed to conference report.

June 30, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 31 (1976): July 26, Presidential statement.



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