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Title: The Coastal Zone Management Act of 1972:
Another Piece of Land Use Legislation, or
An Innovative Approach to Preserving Our
Vital Coastal Zone? (A Background Paper)

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THE COASTAL ZONE MANAGEMENT ACT OF 1972: ANOTHER PIECE OF LAND
USE LEGISLATION, OR AN INNOVATIVE APPROACH TO PRESERVING OUR
VITAL COASTAL ZONE?

INTRODUCTION

This paper attempts briefly to analyze the Coastal Zone Management Act of 1972, 33 USC 1451 et seq. (1972), its legislative history and its purposes as envisioned by its drafters and proponents. Such an analysis is indispensable to appraisal of its implementation by the Office of Coastal Zone Management of the National Oceanographic and Atmospheric Administration in the Department of Commerce. The various provisions of the Act are analyzed in light of what they were designed to do and what impact they can have in the overall environmental and social context of coastal zone management. Some attempt will be made to analyze these social and political impacts of the legislation as it has been implemented to date.

The Coastal Zone Management Act of 1972 [hereinafter "CZMA"] had its genesis in the report of the Commission of Marine Science, Engineering and Resources which was created by the Marine Resources and Engineering Development Act of 1966. Pursuant to this Act a report entitled Our Nation and the Sea was completed by the Commission, and forwarded to Congress in 1969.

It immediately resulted in the first proposed coastal zone management act by Senator Warren Magnuson (D., Washington), S-2802, submitted Aug. 8, 1969 (Companion bill HR 13247 submitted Sept. 16, 1969). In October, 1969, several days of hearings on coastal zone matters were conducted by the Subcommittee on Oceanography of the House Merchant Marine and Fisheries Committee under the aegis of the Chairman, Congressman Lennon of North Carolina, and were entitled a National Conference on the Coastal Zone. Going well beyond the traditional scope of hearings on a proposed bill, the comment and response to the proposed legislation served to focus attention on the already undeniable problems of the coastal zone. The Senate Commerce Committee and its newly created Subcommittee on Oceans and the Atmosphere conducted their own hearings in 1971. Both of these original bills bear a striking resemblance to the finally enacted legislation, with minor changes to be discussed later in this paper.

Review of the legislative history of the Act as enacted, however, reveals an inbred schizophrenia which permeates the entire process from hearings to enactment and is perpetrated in the present stage of implementation of the Act. The original proposed legislation aims at one area above all others, namely the coastal waters out to the limits of the territorial seas.

[Emphasis added.] As proposed it was not an adjunct to, nor a specific component of, contemporaneously proposed legislation for national land use planning. In retrospect it is regrettable though perhaps unavoidable that the parallel subjects of legislative concern were analyzed concurrently by different committees. While the drafters and proponents of the CZMA had clearly perceived its role in the protection of our nation's vital coastal resources, particularly the water areas, many less enlightened legislators, mostly in the House, tended to (and still) consider the coastal zone management legislation as merely a specialized application of land use management. This was clearly not the primary design. As originally intended federal legislation would protect the coastal waters, requiring the states to enact new and comprehensive institutions and laws to protect these coastal waters, with the help of federal financial assistance, and to control only those activities on the land that have a direct and significant impact on the coastal waters. If these controls or the activities sought to be controlled emulated the subject matter of land use legislation that was more coincidental than intended.

Coastal zone legislation clearly was not intended to preempt nor overlap the Federal Water Pollution Control Act which was amended substantially on or about the same time as

the Coastal Zone Management Act. Stipulations were written into every revised draft of the bill, stating its intention not to affect in any way the operation of the Clean Air Act or the Federal Water Pollution Control Act (as amended). It was because of the very uniqueness and multidimensional character of the coastal zone that it impelled a separate piece of legislation treating it as a separate and distinct problem. Not only the coastal waters themselves, whose growing use, competition for use and potential for overuse and abuse were to be the sole area designed to be regulated; but also beaches, estuaries, bays, gulfs, wetlands and marshlands as well were desired to be protected in the national interest. Competing demands in the fields of industry, recreation, transportation, energy facilities siting, and so on, were cited for this extension of federal regulation under the authority of the Commerce Clause. It was recognized that the states had a proliferation of laws and entities which were designed in an earlier age and were without sufficient authority to protect the vital coastal area in the national interest. It was this intention and recognition on the part of Congress to require the states to protect these areas, to develop institutions and laws to effect this control and regulation, while giving full play to traditional local government roles in this task that provided the milieu

for the act.

The other point of origin for the CZMA was the National Estuaries study commissioned in 1966 to be implemented by the Department of the Interior and completed in 1970. It was this study that focused on the problems of our coastal estuaries and their rapid depletion and spoliation from uncontrolled pollution, development and alteration. A dispute arose, particularly in the House, as to which lead agency would be commissioned for the planning and overall coordination from the federal standpoint of the coastal zone management legislation. The Department of the Interior with its component parts, such as the Bureau of Sport Fisheries, Bureau of Outdoor Recreation, Fish and Wildlife Service, Bureau of Land Management, Geological Survey, National Park Service, and Forest Service was viewed by many, particularly those with a preference for overall national comprehensive land use planning, as the sole agency to carry out the intent of Congress. While the National Estuaries Study aptly identified, inventoried and categorized the particular problems common to estuaries throughout the nation, and while the Interior Department possesses a multifaceted, although splintered, authority in the overall land use area, proponents of its designation as the lead agency of coastal zone management missed the focal point of such legislation completely. It was the troubled

coastal waters cited time and time again in Congressional hearings, committee reports, and debate on the floor of the House and Senate that were sought to be protected and not per se the regulation of the contiguous land areas. This debate resulted in passing of two different versions of the Act by the House and Senate respectively and only a yet-to-be-tested compromise as a result of the conference committee's report that permitted the passage of the CZMA as enacted, with responsibilities assigned to the Department of Commerce. If and when national land use legislation is passed, joint hearings are required to be held by the House Interior Committee and the Merchant Marine and Fisheries Committee and concomitently in the Senate by the Interior and Insular Affairs Committee and the Subcommittee on Oceans and Atmosphere of the Senate Commerce Committee.

Other differences eliminated in the conference committee were the elimination of the National Coastal Resources Board, an appellate agency over the Department of Commerce for many inter-state, inter-federal agency and state-federal disputes arising from the implementation of the CZMA. This Board was enacted as part of the Senate version, and was conferenced away. A noteworthy attempt at amplifying the authority function of government in mediating disputes among various governmental and

private agencies was thus nullified. Concomitantly, the House lost the provision requiring federal management of the outer continental shelf to be administered concurrently with state management in the coastal zone with both zones to be regulated interdependently.

Congressman Lennon from North Carolina, the original drafter of the House version of the bill, in response to Congressman Kyl from Iowa, who sought to have the Department of the Interior as the lead agency, stated aptly the thrust of the coastal zone management legislation: "It is an ocean oriented and not land oriented bill. That is the difference." In the Senate debate, Senator Hollings of South Carolina reiterated the same intent of the proposed legislation: "The bill I propose today is aimed at saving the waters of our coast and the land whose use has a direct, significant, and adverse impact upon that water. . .we are talking about promoting orderly sound growth in a narrow strip of land and water of our coastal states, Great Lakes states and our territories. The management program authority may extend inland only so far as to allow control over the use of that land which, as I have said, directly affects the water. So it can be seen that we do not envision huge blocks of inland territory being carved into management program areas. The coastal zone bill would

extend coverage basically to beaches, salt marshes, sounds, harbors, bays and lagoons and the adjacent lands - but not territory so large as to encroach upon land use management. The waters of this zone, again, are our primary target of concern. In disputed cases these waters are those which contain a measurable tidal influence." Proponents of area wide zoning for the coastal zone seem to ignore these statements of clear legislative intent.

Time and time again in the debate of both houses the Commission report, Our Nation and the Sea, was cited as calling the coastline of the United States its most valuable geographic feature, the most biologically productive region of all. Chapter III of that report made an urgent plea for management of the coastal zone, the point of origin for the legislation herein discussed. The bill as enacted, however, was designed to dovetail with National Land Use Policy legislation when and if such should be enacted. The administration and many of its component entities, while initially proposing and espousing the CZMA in hearings before the respective House and Senate committees adopted a fallback position, seeking instead the adoption of one of the several versions of the National Land Use Policy act. It is only by a fortuitous stroke of history that the CZMA was enacted at all, particularly in view of the administration's

later abdication and withdrawal of support from land use management in the present session of Congress.

I. THE COASTAL ZONE MANAGEMENT CONSTITUTIVE PROCESS

The following brief summary of the Act is gleaned from the provisions of the Act, implementing regulations and legislative history respectively.

- Who implements the Act - federal, state, local, regional and other "vitaly interested entities."
- Objectives - to preserve, protect, develop, and restore the resources of the coastal zone.
- Base Values - natural, commercial, recreational, and industrial utilization of the resources of the coastal zone.
- Methods - federal assistance, "encouragement" to states, local government and others to develop land and water use programs within the coastal zone, and
- a new federalism based on federal guidelines, state coordinated action and implementation by a combination of entities at the state, local and regional level.
- Conditions - increasing and competing demands placed upon uses of the coastal zone, loss of living resources, vulnerability of fish, shellfish and other living marine resources to man's alteration of the coastal zone.

Outcomes

- management and development regulation programs which give full consideration to the ecological, cultural, historical and esthetic values and the need for economic development.

Effects

- uniformity in coastal zone management approaches (via general guidelines);
- conscious rational decision-making, considering all factors impinging upon uses of the coastal zone and its resources;
- forfending total destruction of the coastal zone resources, the unalterable result from lack of sporadic and proliferation of a variety of existing controls; and
- a switch in federal policy from sovereign immunity to federal consistency to the "masimum extent practicable" with adopted and approved state management programs.

II. ANALYSIS OF ACT BY SECTION AND SOCIO-ECONOMIC AND POLITICAL IMPACT

The Coastal Zone Management Act is the first federal legislation to deal directly, in a critical segment of our national environment, with the reallocation of development control authority between states and their local governments. The impacts are legal/institutional, socio-economic and political. The overall effect is one of a penumbra of federal guidance and fiscal control over state-coordinated and directed programs of water use regulation and incidental, yet requisite, land use regulation for the specific purpose of controlling activities on land which

have impacts on the contiguous water areas. The state is given a choice of implementing coastal zone management itself, sharing control with local or regional entities, or other interested agencies, or acting as a reviewing authority of the activities of other entities of government. The congressional initiative here is in emerging areas of state based controls over land and water uses. The source of the congressional policy here was the report of the Commission on Marine Science Engineering and Resources (Chapter III page 148), which called for: 1) a plan for multiple uses of coastal and lakeshore waters and lands; 2) resolution of conflicting actions through regulation, zoning and/or acquisition; and 3) conduct of a continuing inventory of studies and research as a contributing link in decision-making processes. The goal here was to modify the fragmented pattern of control created by a diffusion of responsibility among counties, municipalities and other independent agencies of a state and local nature. This evolved into Section 305 of the Act which calls for and mandates a management program development grants system comprising an overall coastal zone management plan for the state, and Section 306 which provides for administrative grants for state regulation of the uses and development of its coastal zone.

The specific designated problems of the coastal zone are set out in detail in The Water's Edge (MIT Press, 1972), the

publication resulting from a seminar held in Woods Hole by experts from around the country in many disciplines in 1972. Some of these additional items are mentioned in the House report on HR 14146 from the Committee on Merchant Marine and Fisheries. Items to be considered include but are not limited to: recreation, transportation, housing, fishing, power, communication, industrial and mineral resource needs; protective requirements for water quality, fish and wildlife habitats, open space, and esthetic values; present and long range use requirements which will not foreclose all options for future generations; flood control and shoreline erosion prevention; and all other matters impinging upon coastal zone resource conservation - in the finest sense of that often abused word.

A. Definition of Coastal Zone

One of the most salient problems addressed by the Commission and later by the drafters of the CZMA was a viable definition of the coastal zone. The Commission referred to it as a transitional region between two different environments, the land and the sea. Therefore the coastal zone is that part of the land affected by its proximity to the sea and that part of the ocean affected by its proximity to land. The CZMA, paraphrasing the above, calls it the coastal waters and adjacent shorelands strongly influenced by each other. (33 USC 1453(a))

The outer boundary is fixed as the limits of the territorial sea. The inland boundary is flexible, originally delimited seven miles under Senate Bill 3460 and now defined as inland from the shorelines only to the extent necessary to control shorelands, uses of which have a direct and significant impact on coastal waters. The legislative history indicates it was purposely adopted to give the states some flexibility in the administration of the law. Regulations adopted under the CZMA, 15 CFR 920.1, and following, reiterate the Congressional intent that the states be permitted maximum flexibility in coastal zone designation. The regulations further urge the states: 1) to recognize factors which may enter into determination of the inland boundary including the existing local government boundaries; 2) to anticipate coordination with requirements of national land use policy; and 3) to apply management to a segment of the coastal zone if desired, with a larger area studied for planning purposes. 15 CFR 920.11(a) This caveat calling for broad planning and a narrower focus of management and regulation of specific activities in terms of area further defuses the argument that CZM is an integral part of overall land use planning for the states. Other than this broad authorization no specific regulation or direction is given as to the rationalization or implementation of a broader planning area from a

shallower control area.

B. The Management Program

The management program itself is defined in Section 304(g) of the CZMA (33 USC 1453(g)) and is to include a comprehensive statement in words, maps, illustrations, or other media which set forth "objective policies and standards" to guide public and private uses in the coastal zone. This definition is carried forward into the prerequisites of development grants under Section 305(b)(1-6) (33 USC 1454(b)(1)-(6)) giving the key elements of a CZM plan: 1) identification of the coastal zone boundaries; 2) definition of permissible land and water uses; 3) inventory and designation of areas of particular concern; 4) identification of means by which state proposes to expect to exert control over land and water uses; 5) broad guidelines on priority of uses; and 6) description of proposed organizational structure. If these elements evince a similarity to those under the National Land Use Policy Act, the similarity is more than coincidental. Section 305 of the CZMA provides management program development grants, with federal funding of up to two-thirds for up to three years for completion and submission of an individual state's plan. The range of grants are from a minimum of 1% to a maximum of 10% of the total appropriations going to any one state. The regulations, 15 CFR 920.10(1), call for an

environmental impact statement due with the submission of the program for approval to the Office of Coastal Zone Management. Section 305(g) (33 USC 1454(g)) permits the allocation by the state of a portion of the grant to local governments, or area-wide agency under the Model Cities Act or an interstate agency. The intent here clearly reflected in testimony in hearings before both houses of Congress was to acknowledge the important contributions to planning being made by local and regional level entities. It was also intended to permit regional economic development commissions with multi-state jurisdictions to assist states in planning.

C. Focus of Management Plan Upon Permissible Uses of Coastal Waters

The regulations, 15 CFR 920.12, go further in guiding designation of permissible uses to be regulated by the states or their designated entities. Consideration should be given to "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." It cannot be overemphasized that the clear thrust of the legislation is to regulate permissible uses and these are to be managed giving full consideration to ecological, historical, cultural

and esthetic values as well as to the needs of economic development. This Congressional finding of fact and inclusion in the law, both in the CZMA itself and the regulations, can only portend pervasive and lasting changes in the climate of federalism as it pertains to the coastal zone. The states are charged with developing indices for determining environmental and ecological impacts whether they be beneficial, benign, tolerant or adverse. This is only the first step to give substance and clarity to the uses judged permissible in an individual state plan. Factor analysis here includes location, magnitude, nature of impact upon existing natural or manmade environments, economic, commercial, and other "triggering impacts," as well as land and water uses of regional benefit. States are further charged to conduct studies to determine criteria and measures to assess the impact of existing, projected or proposed uses or classes of uses on identified coastal environments. They are to categorize the nature, location, scope and conflicts of current and anticipated coastal land and water use or classes of uses; and to maintain a continuing compilation, verification and assessment of general characteristics, values, interrelationships within coastal land and water environments.

In presenting the bill for a vote in the Senate, Senator

Hollings of South Carolina cited the Commission report as follows:

"Rapidly intensifying use of coastal areas already has outrun the capabilities of local governments to plan their orderly development and to resolve conflicts. The division of responsibilities among the several levels of government is unclear, and the knowledge and procedures for formulating sound decisions are lacking.

"The key to more effective use of our coastland is the introduction of a management system permitting conscious and informed choices among developmental alternatives, providing for proper planning, and encouraging recognition of the long term importance of maintaining the quality of this productive region in order to insure both its enjoyment and the sound utilization of its resources. The benefits and the problems of achieving rational management are apparent. The present federal, state and local machinery is inadequate. Something must be done."

The key focus then is to create an environment employing the latest systems analysis techniques to the critical problems of the coastal zone, with emphasis being placed on regulation of uses as the key control mechanism to be administered by the states or their designated entities under a regime of federal guidelines and fiscal control. The exception to state regulation is in natural interest siting provision, Section 306(c)(8) (33 USC 1455(c)(8)) Aside from this provision added by the national regulated utility industries, states are permitted wide latitude in deciding what their permissible uses shall be of

their coastal zone both land and water, and how they will regulate them.

D. Relationship of Permissible Uses to Areas

Uses can only be regulated in designated areas and the regulations, 15 CFR 920.13, give more precise guidelines on the geographic areas of particular concern: 1) areas of unique, scarce, fragile or vulnerable natural habitat, physical features, historical significance, cultural value and scenic importance; 2) areas of high natural productivity or essential habitat for long living resources including fish, wildlife and various trophic levels in the food web critical to their wellbeing; 3) areas of substantial recreational value and/or opportunity; 4) areas where development and facilities are dependent upon utilization of or access to coastal waters; 5) areas of unique geological or topographic significance to industrial or commercial development; 6) areas of urban concentration where shoreline utilization and water uses are highly competitive; 7) areas of significant hazard if developed due to storm, slides, erosion or settlement; 8) areas needed to protect, maintain or replenish coastal lands resources including coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits and mangrove stands. These areas are input into the management program via Section 306(c)

(9) of the CZMA (33 USC 1455 (c) (9) which makes provision for procedures whereby specific areas are to be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values. It should be noted here that, amplifying the Congressional intent not to conflict with the federal Water Pollution Control Act, Section 304(b) of the Act (33 USC 1453(1) specifically excludes under water uses the regulation of water pollutants.

The CZMA and its implementing regulations recognize that there is a relative imbalance between the experiences in land use as compared to water use management and control. This in no way was intended to influence the thrust of implementation and, indeed, from a thorough study of all sources, it can be seen that the exact opposite was intended, again the focus being on the water areas and only tangentially to control the land areas as they impact water uses. The definition of water uses emanates from the testimony of Russell Train, at that time Chairman of the Council on Environmental Quality. Testifying on Senate Bill 2802 at page 1127 of the Senate hearings he defines water uses as any activities conducted in or on the water. Regulation of these uses, any or all of them, is the intention of Congress and its mandate in the CZMA. Presumably this would include pleasure boating, surfing, skin diving or any other uses

of the water column surface, or seabed or subsoil itself.

Senate Report 92-573, at page 4780, of the USC Congressional, and Administrative News states:

"Coastal zone management must be considered in terms of the two distinct but related regimes of land and water . . . the committee hopes that the state will move forthrightly to find a workable method for state, local regional, federal and public involvement in regulation of non-federal land and water use within the coastal zone. In light of the competing demands and the urgent need to protect our coastal zone, the existing institutional framework is too diffuse in form, neglected in importance and inadequate in the regulatory authority needed to do the job. The key to more effective use of the coastal zone is permitting conscious and informed choices among the various alternatives. The aim of the legislation is to assist in this very critical goal."

E. Federal/State Roles in Implementation of Management Program

The division of roles between the state and federal governments, then, is clear. The state management program is to be the process by which coastal states or the approved agencies propose to manage land and water uses in the coastal zone so as to reduce or minimize direct, significant and adverse effects upon waters including the development of criteria and government structures capable of implementing the plans. The process is to be dynamic, and is to incorporate new technology as it evolves.

The federal role is one of a continuing review mechanism and of providing a framework of allocating the resources to carry out the state approved management program.

After the state's original management program is approved Section 306 of the Act (33 USC 1455) provides for administrative grants for implementing the provisions of the approved programs. Annual grants of up to two-thirds of the administration costs may be made to states with approved programs. Again, the range of allocation is from one to ten percent of the appropriations depending upon such factors as the extent and nature of shore-line areas covered by the plan, population and other relevant factors. Section 306(c) (33 USC 1455(c)) sets out program requirements in that nine specific findings must be made before the Secretary of Commerce may approve the administrative grants under the Act:

- 1) That the state has adopted a management program in accordance with the laws and regulations with full opportunity of participation by relevant federal agencies, coastal state agencies, local governments, regional organizations, port authorities and other interested parties, public and private.

- 2) (a) That coastal state has coordinated its program with local, areawide or interstate plans developed by the local government, interstate agency or areawide agency designated

under Section 204 of the Model Cities Act (42 USC 3334) applicable to areas within the coastal zone existing on January 1st of the year in which the management program was submitted to the Secretary.

2) (b) That the state has established an effective mechanism for continuing consultation and coordination between the management agency and local government, interstate agency or areawide agency within the coastal zone. This must be done to assure full participation of such local government agencies in carrying out the purposes of the title.

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

4) That the management program and any changes in the program be reviewed or approved by the governor of the coastal state.

5) That the governor of the coastal state has designated a single agency to receive and administer funds for implementing the management program. The Governor is a statutory "point of contact" for implementation of the Act. Note that the state must designate a "single agency" for administrative responsibility and to be the recipient of the federal funds.

6) That the coastal state is organized to implement the management program.

7) That the coastal state has authority necessary to administer the program, which under Section 306(d) (33 USC 1455(d)) can be exercised in part by a state through a chosen agency of local government or an areawide agency under the Model Cities Act.

8) That the management program provides for adequate consideration of the national interest in siting facilities necessary to meet requirements which are other than local in nature. This provision was added originally in Conference Committee. It is reflective of the concern of the electric utility companies for state control over regional energy needs and the siting of energy facilities.

9) To make provision for procedures whereby specific areas developed for preserving or restoring for conservation, recreational, ecological or esthetic values. The authority here must include the power to implement such designation. This power must include: (a) Administration of land/water regulations to control development in order to insure compliance with the program, resolve conflicts among competing uses; and (b) to acquire the fee simple or less than fee simple interests in lands, waters or other property through condemnation or other means necessary to insure conformance with the purposes of the Act.

Section 306(e) of the CZMA (33 USC 1455(e)) specifies that the program must have one or more of the following control techniques over land and water uses:

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) Coastal state administrative review for consistency with the management program of all development grants projects land and water regulations including exceptions and variations thereto proposed by any state or local authority or private developer with the power to approve or disapprove after public notice and hearings.

Allocation of some of the funds to local government, interstate agency or areawide agency under the Model Cities Act is permitted by Section 306(f) (33USC 1455(f)). The state remains responsible to ensure local government compliance with the approved state plan in expenditure of all funds, however. Section 306(g) (33 USC 1455(g)) provides for amendment of the state's program by the state with the specific approval of the Secretary. Section 312 of the Act (33 USC 1460) provides for a coastal zone management advisory committee comprised of 15

members to assist the Secretary of Commerce in policy matters regarding the coastal zone.

Establishment of state estuarine sanctuaries is established with federal assistance under 33 USC 1461 of the Act. Some six million dollars is authorized under Section 1464 in the first year, comprising fifty percent funding by the federal government in this venture (with a two million dollar limit per sanctuary). This program may incorporate existing state sanctuaries and will follow up on the strong recommendation made by the Commission that sanctuaries representing unique and distinct estuarine systems in the nation's coastal zone be preserved for educational and scientific purposes. Unfortunately, it was inclusion of this section which gave impetus to the misconception of the purposes of the Act, a coastal water uses control and regulation act, as a combined land-and-water management act.

Section 307 of the Act (33 USC 1456(b)) evidences the intended shift of federal policy from one of sovereign immunity to acquiescence of federal consistency with state programs once an existing regime of approved state management programs exists in the coastal zone. Section 307(a) (33 USC 1456(a)) provides that unless the views of federal agencies within the coastal zone are considered by the Secretary in approving grants, he is unauthorized to do so. However, Section 307(c) (33 USC

1456(c)(1)) imposes the consistency requirement on federal agencies for all activities directly affecting the coastal zone whether conducted or supported by them, are to be conducted to the maximum extent "practicable" with the approved state management program. Section 307(c)(2) extends the requirement to all development projects undertaken in the coastal zone. Section 307(c)(3) (33 USC 1456(c)(3) provides the Secretary of Commerce can find an activity or permit request consistent with the purpose of the Act and approve it as long as a reasonable opportunity for state and Federal comment is provided. Otherwise a federal project can proceed if it is necessary for national security interests only. Section 307(c)(3) (33 USC 1456 (c)(3)) extends the consistency requirement to applicants for federal licenses who must comply with the approved state management program before such licenses may be granted for activities which impact within the states coastal zone.

While the Secretary alone mediates disputes regarding activities, projects and permits among state and Federal agencies once the development plan is approved, federal-state disputes devolving from plan itself require consultation with the Executive Office of the President and ultimate decision by the Secretary of Commerce.

F. Future Direction of Coastal Zone Management

The consistency requirement is extensive and pervasive and evidences a major shift in federal policy. It gives additional weight to the Congressional intent of the importance of coastal zone management in the context of a new federalism. Federal agencies conducting or supporting activities which merely affect the coastal zone, albeit indirectly, must implement the consistency requirement as well as those conducting development projects in the coastal zone and any applicants for approval for a federal license or permit to conduct an activity within or without the coastal zone which affects land or water uses in the coastal zone again must comply with the states approved management program. In the future, then, beginning with the trend which included Office of Management and Budget Circulars A85 and A95 and continuing into the future regime operating under approved state management programs, it is clear the states will have major control, which is virtually nonexistent today, over activities both within and without their coastal zones conducted either by entities of the federal government or by private entities under government license or permit. This will have important and multiple effects upon social, economic and political decision making regarding development and use of the resources of the coastal zone.

Although many problems remain to be resolved in the implementation of the Act, such as implementing the explicit provision for local government participation under Section 306 (c) (1) (33 USC 1455(c) (1)) reinforced by requirements for coordination of the state regulation with local plans under Section 306(c)(2) (a) (33 USC 1455(c) (2) (a)) and continuing state consultation with local governments under Section 306(c) (2) (b) (33 USC 1455(c) (2) (b)), the importance of the Act in terms of preservation of our nation's vital coastal zone cannot be understated and the suggestion in many quarters that it is a mere special purpose piece of legislation in the context of an overall federal land use management policy is fallacy.

In the words of Congressman Kyl of Iowa who sponsored the amendment to place coastal zone management in the hands of the Secretary of the Interior for implementation as part of a national land use plan, an amendment which was subsequently deleted in the conference committee, the importance of the legislation is perhaps best stated:

"I urgently submit that it is far more important right now today to enact comprehensive and landmark legislation - the first in the history of the United States - providing for a framework of state land and water use planning in the coastal zone, rather than defeat the bill from the standpoint of agency jurisdiction. This landmark legislation was supported by the general public in all parts

of the country, supported by almost every environmental organization in existence, supported by the governors of the respective states, supported by local and state planning personnel in the coastal zone states, supported by numerous fishery organizations in the Atlantic, Gulf, Pacific and Great Lakes, supported by organized labor and supported by an overwhelming majority of the other body by a vote of 68-0 and by this body by a vote of 376-6."

In those words Congressman Kyl urged an overwhelming vote in favor of the conference report. No greater tribute to the purpose, intent and importance of the legislation can be recounted than from one who earlier was one of its chief critics, seeking to relegate it to the Department of the Interior to be submerged and merged in the context of overall national land use planning.

* * * * *

APPENDIX I

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.

CHAPTER 33.—COASTAL ZONE MANAGEMENT [NEW]

- 1451. Congressional findings.
- 1452. Congressional declaration of policy.
- 1453. Management development program grants.
- (a) Authorization.
- (b) Program requirements.
- (c) Limits on grants.
- (d) Submission of program for review and approval.
- (e) Allocation of grants.
- (f) Reversion of unobligated grants.
- (g) Grants to other political subdivisions.
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§ 1451. Congressional findings

The Congress finds that—

- (a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;
- (b) The coastal zone is rich in a variety of natural, commercial, recreational, 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

Short Title. Section 301 of Pub.L. 90-451, as added by Pub.L. 92-503, provided that: "This title [enacting this chapter] may be cited as the 'Coastal Zone Management Act of 1972.'"

Legislative History. For legislative history and purpose of Pub.L. 92-503, see 1972 U.S. Code Cong. and Adm. News, p. 1072.

§ 1452. Congressional declaration of policy

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 chapter, 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.

Pub.L. 92-503, Title III, § 302, as added Pub.L. 92-583, Oct. 27, 1972, § 6

§ 1453. Definitions

For the purposes of this chapter—

(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, baysous, 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 chapter, 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 chapter, 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 1456(f) of this title.

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone, subject to the requirements outlined in section 1456(g) of this title.

Pub.L. 89-454, Title III, § 304, as added Pub.L. 92-583, Oct. 27, 1972, § 4 Stat. 1281.
Legislative History. For legislative history, see 1972 U.S. Code Cong. and Adm. News, p. 777 and purpose of Pub.L. 92-583, see _____

§ 1454. Management development program grants—Authorization

(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.

Program requirements

- (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, statewide, state, regional, and interstate agencies in the management process.

Limits on grants

- (c) The grants shall not exceed 65% 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 1455 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.

Submission of program for review and approval

(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 1455 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 1455 of this title.

Allocation of grants

(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.

Reversion of unobligated grants

(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.

Grants to other political subdivisions

(g) With the approval of the Secretary, the state may allocate to a local government, to an area-wide agency designated under section 3334 of Title 42, 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 of grant authority

(h) The authority to make grants under this section shall expire on June 30, 1977.
Pub.L. 89-454, Title III, § 305, as added Pub.L. 92-583, Oct. 27, 1972, § 6 Stat. 1282.

Legislative History. For legislative history, see 1972 U.S. Code Cong. and Adm. News, p. 777 and purpose of Pub.L. 92-583, see _____

§ 1455. Administrative grants—Authorization

(a) The Secretary is authorized to make annual grants to any coastal state for not more than 65% per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) of this section. Federal funds received from other sources shall not be used to pay the state's share of costs.

Allocation of grants

(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 chapter and is consistent with the policy declared in section 1453 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 3334 of Title 42, 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 areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this chapter.

(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.

Required authority for management of coastal zone

(4) 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, areawide agencies designated under section 3334 of Title 42, 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 fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

Required findings

(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.

Allocation to other political subdivisions

(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 3334 of Title 42, a regional agency, or an interstate agency, a portion of 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 modifications

(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.

Pub.L. 89-454, Title III, § 306, as added Pub.L. 92-582, Oct. 27, 1972, 86 Stat. 1283.

Legislative History. For legislative history, see U.S. Code Cong. and Adm. News, p. 1077 and purpose of Pub.L. 92-582, see

§ 1456. Interagency coordination and cooperation.—Federal agencies (a) In carrying out his functions and responsibilities under this chapter, the Secretary shall consult with, cooperate with, and to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

Adequate consideration of views of Federal agencies in modification of management

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

adequately considered. 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.

Consistency of Federal activities with state management programs: certifications

(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.

(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 chapter or is otherwise necessary in the interest of national security.

Applications of local governments for Federal assistance; relationship of activities with approved management programs

(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 1966. 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 chapter or necessary in the interest of national security.

Consistency with other laws

(e) Nothing in this chapter shall be construed—

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

Government; nor to limit the authority of Congress to authorize and fund projects;

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

Consistency with existing requirements of water and air pollution programs

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

Concurrence with programs which affect inland areas

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 1456 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

Pub.L. 89-454, Title III, § 307, as added Pub.L. 92-583, Oct. 27, 1972, 86 Stat. 1285.

References in Text. The Intergovernmental Coordination Act of 1966, referred to in section 1456, is Public Law 89-454, Title IV thereof, which is classified to section 4231 et seq. of Title 42, The Public Health and Welfare. The Federal Water Pollution Control Act and the Clean Air Act, referred to in section 1456, are classified to sections 1351 et seq. of Title 33, Navigational and Maritime Affairs, and section 1601 of Title 42, The Public Health and Welfare. For legislative history and purpose of Pub.L. 92-583, see Administrative History, 1972 U.S. Code Cong. and Admin. News, p. 266.

§ 1457. Public hearings

All public hearings required under this chapter must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency. Pub.L. 89-454, Title III, § 308, as added Pub.L. 92-583, Oct. 27, 1972, 86 Stat. 1287.

Legislative History. For legislative history and purpose of Pub.L. 92-583, see Administrative History, 1972 U.S. Code Cong. and Admin. News, p. 266.

§ 1458. Review of performance; termination of financial assistance

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

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 1455 of this title 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 had been given notice of

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the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program. Pub.L. 89-464, Title III, § 309, as added Pub.L. 92-583, Oct. 27, 1972, 86 Stat. 1287.

Legislative history. For legislative history and purpose of Pub.L. 92-583, see _____

§ 1459. Records and audit

(a) Each recipient of a grant under this chapter 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.

(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 chapter.

Pub.L. 89-454, Title III, § 310, as added Pub.L. 92-583, Oct. 27, 1972, 86 Stat. 1287.

Legislative history. For legislative history and purpose of Pub.L. 92-583, see _____

§ 1460. Coastal Zone Management Advisory Committee

(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.

(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, for individuals in the Government service employed intermittently.

Pub.L. 89-454, Title III, § 311, as added Pub.L. 92-583, Oct. 27, 1972, 86 Stat. 1287.

Legislative history. For legislative history and purpose of Pub.L. 92-583, see _____

§ 1461. Estuarine sanctuaries

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 1454 or 1455 of this title shall be used for the purpose of this section.

Pub.L. 89-454, Title III, § 312, as added Pub.L. 92-583, Oct. 27, 1972, 86 Stat. 1388.

Legislative history. For legislative history and purpose of Pub.L. 92-583, see _____

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§ 1463. Annual report

(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 chapter 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 chapter during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this chapter and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this chapter, 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 1456 of this title, 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 chapter in order of priority; and (9) such other information as may be appropriate.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this chapter and enhance its effective operation.

Pub.L. 89-454, Title III, § 313, as added Pub.L. 92-583, Oct. 27, 1972, 86 Stat. 1288.

Legislative history. For legislative history and purpose of Pub.L. 92-583, see _____

§ 1463. Rules and regulations

The Secretary shall develop and promulgate, pursuant to section 558 of Title 5, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this chapter.

Pub.L. 89-454, Title III, § 314, as added Pub.L. 92-583, Oct. 27, 1972, 86 Stat. 1288.

Legislative history. For legislative history and purpose of Pub.L. 92-583, see _____

§ 1464. Authorization of appropriations

(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 1454 of this title, to remain available until expended;

(2) such sums, not to exceed \$9,000,000, 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 1455 of this title 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 1461 of this title, to remain available until expended.

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(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 chapter.

Pub.L. 92-454, Title III, § 315, as added Pub.L. 92-583, Oct. 27, 1972, 86 Stat. 1289.

Legislative History. For legislative history, see U.S. Code Cong. and Adm. News, p. 607 and purpose of Pub.L. 92-583, see ...

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