

COASTAL ZONE MANAGEMENT
ACT AMENDMENTS OF 1976

REPORT

OF THE

COMMITTEE OF CONFERENCE

ON

S. 586

TO IMPROVE COASTAL ZONE MANAGEMENT IN THE
UNITED STATES, AND FOR OTHER PURPOSES



JUNE 24 (legislative day, JUNE 18), 1976.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976

COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1976

JUNE 24 (legislative day, JUNE 18), 1976.—Ordered to be printed

Mr. HOLLINGS, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 586]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 586), to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Coastal Zone Management Act Amendments of 1976".

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 facili-

ties, 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).

“(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).

“(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 paragraph 20, 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*

“(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:*

“(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, within 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.”.

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 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 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.

“(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.

“(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 expended 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 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, 1968.

“(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 (c) (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 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).

“(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 resides 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 subsection (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.

“(5) Criteria under which the Secretary shall establish rates of interest on loans made under subsection (d) (1) and (3). Such rates shall not exceed the current average market yield on out-

standing 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) (2), 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.

“(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).

“(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 (B) 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.

“(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.

“(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—

“(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.

“(l) 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; or

“(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

“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.

“(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.

“(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.

“(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.”.

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.”.

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 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.

“(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.

(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.”

(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.*

SEC. 16. SHELLFISH SANITATION REGULATIONS.

(a) *The Secretary of Commerce shall—*

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

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

(b) *The Secretary of Health, Education, and Welfare 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.*

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: “An Act to improve coastal zone management in the United States, and for other purposes.”

And the House agree to the same.

WARREN G. MAGNUSON,
 ERNEST F. HOLLINGS,
 JOHN V. TUNNEY,
 TED STEVENS,
 LOWELL P. WEICKER, Jr.,
Managers on the Part of the Senate.

LEONOR K. SULLIVAN,
 THOMAS N. DOWNING,
 PAUL G. ROGERS,
 JOHN M. MURPHY,
 JOHN B. BREAUX,
 PIERRE S. DU PONT,
 DAVID C. TREEN,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 586), to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal states to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and provided a new title for the Senate bill, and the Senate disagreed to the House amendments.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House to the text of the Senate bill, with an amendment which is a substitute for both the text of the Senate bill and the House amendment to the text of the Senate bill. The committee of conference also recommends that the House recede from its amendment to the title of the Senate bill, with an amendment which is a substitute for both the title of the Senate bill and the House amendment to the title of the Senate bill.

The provisions of the amendment recommended by the committee of conference are set forth below in a manner sufficiently detailed and explicit to inform the House and the Senate as to the effect which the amendment contained in the accompanying conference report will have upon the measure to which it relates.

SUMMARY AND DESCRIPTION

The purpose of the conference substitute is to improve and strengthen coastal zone management in the United States and to coordinate and further the objectives of national energy policy by directing the Secretary of Commerce to administer and coordinate, as part of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) (hereinafter referred to as "the 1972 Act"), a coastal energy impact program.

The 1972 Act was enacted before the advent of the current and continuing energy crisis; i.e., before attainment of a greater degree of energy self-sufficiency became a recognized national objective of the highest importance and priority. The conference substitute follows both the Senate bill and the House amendment in amending the 1972 Act to encourage new or expanded oil and natural gas production in an orderly manner from the Nation's outer Continental Shelf (OCS) by providing for financial assistance to meet state and local needs resulting from specified new or expanded energy activity in or affecting the coastal zone.

The conferees believe (1) that there is a real possibility of delay or disruption in Federal plans for needed new and expanded OCS oil and gas production unless coastal states and coastal communities are assured of the means of coping with and ameliorating the impacts from such activities; (2) that the coastal states are concerned about furthering national energy objectives; (3) that a strengthened coastal zone management program, with full participation by the states, is vital to the protection and proper management of irreplaceable coastal resources and is the best means of dealing with impacts from new or expanded coastal energy activity; (4) that the Federal Government, because of the national need to increase domestic energy production to reduce reliance on imports, should provide assurance of timely and practicable financial assistance related and tailored to these needs; (5) that the coastal states and localities, which are closer to and more cognizant of the situation, should make the basic decisions as to the particular needs which result from such new or expanded energy activity; and (6) that the discretion of the Secretary of Commerce and other Federal officials should be correspondingly limited.

The conference substitute, like the House amendment, does not provide for formula grants to coastal states based solely on OCS oil and gas production and first landings of such production, because production-related payments per se might not be distributed in time to meet the total needs of recipients. Instead, the conference substitute would provide formula grants based on a formula which follows criteria set forth in the Senate bill and the House amendment. The conference substitute, like the Senate bill, does not provide for all Federal financial assistance to be in the form of grants or guarantees, because ordinary taxation by the states and localities affected may be adequate to pay for, over a reasonable period of time, the cost of new or improved (expanded or renovated to meet the new requirements) public facilities and public services. For example, new energy employment and related populations will create a need for such facilities and services, but they will also increase the total amount of tax revenues collected in or from the impacted area, on the basis of which the cost of these facilities and services can be amortized.

The primary impact assistance would be provided through a revolving account in the Treasury of the United States which shall be known as the Coastal Energy Impact Fund. The Fund will be based on annual appropriations (together with miscellaneous receipts in the form of fees, etc.).

Under the conference substitute, the bulk of the Federal energy impact assistance is authorized to be appropriated to the Fund for (1) Federal loans to coastal states, and units of general purpose local government in coastal states; (2) Federal guarantees of bonds and other indebtedness issued or entered into by such states and units; (3) backup or adjustment grants to be awarded when the states and localities cannot meet their obligations under these loans and guarantees with ordinary tax revenues; and (4) special grants for (i) the prevention, reduction or amelioration of unavoidable losses of environmental and recreational resources, and for (ii) the study and planning for the consequences of energy-related activity in the coastal zone. A total of \$800 million is authorized to be appropriated to the Fund, for

these purposes. These loans and guarantees would be made, pursuant to an allotment for each coastal state, for the purpose of financing new or improved public facilities and public services which are required as a result of new or expanded coastal energy activity.

Formula grants will be made to coastal states on the basis of a statutory formula that relates to state and local needs resulting directly from new or expanded outer Continental Shelf energy activity. The conference substitute follows the House amendment in authorizing a total of \$400 million over eight years for such formula grants. The formula in the conference substitute also contains built-in incentives for coastal states to assist in achieving the underlying national objective of increased domestic oil and gas production. The formula follows the House amendment. Under it, one-third of each coastal state's formula grant will be based on the amount of new OCS acreage leased adjacent to all of the coastal states in that year; one-sixth will be based on the volume of oil and natural gas produced in such year from such acreage adjacent to such state by comparison with the total such production from such acreage adjacent to all of the coastal states; one-sixth will be based on the volume of such production which is first landed in such state in such year by comparison with the total first landings of such production in such year in all of the coastal states; and one-third will be based on 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 by comparison with 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. Formula grant payments which are not used for the purposes specified in the conference substitute must be returned to the Secretary.

The formula, as so constructed, provides incentives to coastal states (if they are interested in increasing their share of the funds appropriated for this purpose) to encourage and facilitate the achievement of the basic national objective of increasing domestic energy production. This provision would be in harmony with sound coastal zone management principles because Federal aid would be available only for states acting in accord with such principles. For example, since the grant is based on new leaseings, production, first landings, and new employment, it is to the state's interest to apply the "consistency" provisions and related processes to the issuance of oil exploration, development and production plans, licenses, and permits as quickly as possible rather than to postpone decision-making for the statutory 6-month period.

Coastal energy impact assistance would be available under the conference substitute (as under the Senate bill and the House amendment) to any coastal state which (1) has a coastal zone management program which has been approved under section 306; (2) is receiving a grant under section 305 (c) or (d) or (3) is, in the judgment of the Secretary, making satisfactory progress toward the development of a management program consistent with the policies set forth in section 303.

Thus, under the conference substitute, all Federal financial assistance for energy impacts is specifically related to needs resulting from specified energy activities. The conferees believe that such a nexus is

required in order to maximize, at the lowest reasonable cost to the Federal taxpayer, the attainment of the national objective of energy self-sufficiency, with respect to offshore oil and gas development, and to assure that such development takes place in accordance with sound environmental principles. New section 308 of the Coastal Zone Management Act of 1972, which includes these provisions and which is entitled "Coastal Energy Impact Program", sets forth and provides for a flexible and coordinated approach to the respective responsibilities of the Federal Government in providing, and the state and local governments in using, Federal financial assistance required to meet state and local needs resulting from new or expanded coastal energy activity, and tailors the form of the assistance to the necessity therefor. The conference substitute would provide for grants to state or local governments to pay off loans or guaranteed indebtedness in those cases where it can be clearly demonstrated to the Secretary that (1) ordinary tax revenues will not meet the cost of providing required new or improved public facilities and public services; (2) the projected revenues based on projected new employment and related populations and facilities fail to materialize in fact; or (3) the very nature of the state or local need is so diffuse (i.e., planning) or indirectly relatable (i.e., prevention, reduction, or amelioration of unavoidable losses of valuable ecological and recreational resources) to the usual revenue-collection mechanisms as to make repayment difficult or impossible to achieve or assure. Such grant shall be made without any obligation other than that the proceeds in fact be expended for proper purposes. If costs can be recouped, however, through such ordinary methods, the moneys involved could be used again and again to meet the similar needs of other communities and states.

The provisions of new section 308 are set forth in detail below in the section-by-section discussion of section 7 of the conference substitute.

The conference substitute also follows the Senate bill, the House amendment, or both, in making a number of other changes in or modifications to the 1972 Act. These changes and modifications, which are also discussed in detail below, include—

(1) the establishment of three additional requirements for state coastal zone management programs;

(2) a new program of financial assistance for coastal states which have already developed management programs which are in compliance with the requirements of section 305(b) but which do not yet qualify for approval and administrative grants under section 306;

(3) a new incentive for an expeditious determination of whether particular offshore energy activity is consistent with a coastal state's approved management program, on an overall plan basis rather than on an individual license/permit by license/permit basis;

(4) a new provision under which the Congress grants its assent to the formation of interstate compacts and to interstate agreements for the development and administration of coordinated coastal zone planning, policies, and programs and for the establishment of implementing instrumentalities or agencies, pursuant to which Federal financial assistance will be provided;

(5) a new provision for research and training to support coastal zone management programs;

(6) an authorization for new matching grants to enable coastal states to acquire access to public beaches and other public coastal areas of value and to preserve islands, to help meet the growing need for more recreational outlets in coastal areas; and

(7) authorization of appropriations for the next 4 years of the Nation's coastal zone management effort.

The bill, in addition—

(1) creates the new Office of Associate Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration who shall administer the provisions of the 1972 Act, including amendments of this conference substitute;

(2) authorizes four special positions to the extent necessary for administration of the amendments made by this legislation; and

(3) directs the Secretary of Commerce to review all aspects of the molluscan shellfish industry and to evaluate the impact on that industry of Federal law concerning water quality, and to report thereon to the Congress by April 30, 1977.

SECTION-BY-SECTION DISCUSSION

The first section of the conference substitute follows the Senate bill and the House amendment in providing that the short title of this legislation is the "Coastal Zone Management Act Amendments of 1976."

Section 2. Findings

Section 2 follows the Senate bill and the House amendment in expanding the finding in section 302(b) of the Coastal Zone Management Act of 1972 which declares that the coastal zone is rich in "a variety of natural, commercial, recreational, industrial, and esthetic resources"; the amendment finds that the coastal zone is also rich in ecological resources. The section also makes changes in punctuation between the subsections and adds an additional subsection which conforms section 302's findings to the major new provision added to the existing law by the conference substitute (new section 308 with respect to financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone).

Section 3. Definitions

Section 3 follows the Senate bill or the House amendment, or both, in modifying certain definitions in section 304 of the Coastal Zone Management Act of 1972 and in adding certain additional definitions thereto. The changes are as follows:

The definition of "coastal zone" is expanded to include "islands."

The definition of "estuarine sanctuary" is amended to include any islands within the area in, adjoining, or adjacent to an estuary.

The section adds a definition of the term "coastal energy activity". The term means (1) any OCS energy activity; (2) any transportation, conversion, treatment, transfer, or storage of liquefied natural gas; and (3) any transportation, transfer, or storage of oil, natural gas, or

coal (including, but not limited to, by means of any deepwater port, as defined in the Deepwater Port Act of 1974); the above activities are included in such term if, and to the extent that, such activity requires and involves the siting, construction, expansion or operation of any equipment or facility and if technical requirements necessitate that such siting, construction, expansion or operation be carried out in, or in close proximity to, the coastal zone of any coastal state. This definition follows the House amendment.

The definition of the term "energy facilities" follows that in the Senate bill and the House amendment. The term means equipment and facilities which are or will be used primarily in exploration for or in development, production, conversion, storage, transfer, processing, or transportation of any energy resource; or primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any such activity. The definition includes a list, which is not exclusive, of equipment and facilities which come within this description.

The section follows the House amendment in adding a definition of "local government". A local government means any political subdivision of, or any special entity created by, any coastal state which (in whole or in part) is located in or has authority over such state's coastal zone and which either has authority to levy taxes or to establish and collect user fees or which provides any public facility or public service which is financed by taxes or user fees.

The section also follows the House amendment in adding a definition of "outer Continental Shelf energy activity". The term means any exploration for, or development or production of, oil or natural gas from the outer Continental Shelf, or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production. [The term "outer Continental Shelf" has the same meaning as set forth in section 2(a) of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331(a))].

The section follows the Senate bill in adding a definition of the term "person" for purposes of the Coastal Zone Management Act of 1972. The definition is different from the definition of the term "person" in section 1 of title 1 of the United States Code (which applies to all U.S.C. provisions unless otherwise provided) in that it includes the Federal Government, any state, local, or regional government, or any entity of any such government.

The section follows the Senate bill and the House amendment in adding a definition of the term "public facilities and public services". The term means specified facilities and services which are financed, in whole or in part, by any state or political subdivision thereof. This list of facilities and services are not intended to be exclusive and the Secretary may add to the enumerated list if he determines that other facilities or services so financed will support increased population.

Section 4. Management Program Development Grants

The conference substitute makes a significant number of additions to and changes in section 305 of the Coastal Zone Management Act of 1972. These amendments are combined with the existing and unchanged provisions in the interest of clarity.

The conference substitute follows the Senate bill and the House amendment in adding additional requirements to the listing within section 305(b) of the mandatory provisions to be included in a coastal zone management program: (1) 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 specified value; and (2) a planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including impact management. The conference substitute also follows the House amendment in adding another requirement to the section 305(b) list: a planning process for assessing the effects of shoreline erosion and for evaluating ways to control or lessen the consequences of such erosion or to restore areas adversely affected thereby.

The conference substitute also amends section 305 by inserting as a new subsection (d) (existing subsection (d) is redesignated as subsection (h)) an authorization for the Secretary of Commerce to make grants annually to coastal states (in amounts up to 80 per centum of the costs) for the purpose of assisting such a state to complete and initially implement its coastal zone management program, before it qualifies for administrative grants under section 306.

Paragraph (2) of this new subsection (d) sets forth the eligibility prerequisites for these initial implementation grants. A coastal state is eligible to receive grants under this subsection if (1) it has developed a management program which meets the requirement of section 305(b), but which has not yet been approved under section 306; (2) it has specifically identified, after consultation with the Secretary, any deficiencies in its management program which make it ineligible for such approval and has established a reasonable time schedule for remedying any such deficiencies; (3) it has specified the purposes for which these grants will be used; (4) it is taking or has taken adequate steps to meet requirements involving Federal officials or agencies as set forth in section 306 or 307; and (5) it has complied with any other requirement prescribed by regulation to carry out this subsection.

Subsection (h) (formerly subsection (d)) is modified to permit a coastal state whose management program is approved under section 306 (qualifying it for section 306 administrative grants) to receive grants under section 305(c) for the sole purpose of assisting it in developing planning processes that will satisfy the new subsection (b) requirements indicated above.

Subsection (i) (formerly subsection (h)) is amended to extend the date of expiration of authority to make grants under this section from June 30, 1977 to September 30, 1979.

Section 5. Administrative Grants

The conference substitute follows both the Senate bill and the House amendment in amending subsection (a) to raise from 66 $\frac{2}{3}$ per centum to 80 per centum, the Federal share of grants under section 306.

The conference substitute follows the House amendment in specifying what is meant by "effective" in the provision in subsection (c) (2) (B) which requires that the Secretary find, before a state's management program can be approved, that the state has "established an effective mechanism for continuing consultation and coordination"

before such state's management program can be approved under section 306.

The state's coastal zone management agency is required, before implementing a management program decision which would conflict with any local zoning ordinance, decision or other related zoning action, to send a notice of such management program decision to any local government whose zoning authority would be affected. The local government would have the right to submit comments to the management agency within a thirty-day period following such government's receipt of the notice of management program decision, and no action can be taken during such period which would interfere or conflict with such program decision. The management agency is required to consider any comments submitted and is authorized to conduct a public hearing thereon. During the thirty-day comment period, the management agency may not take any action to implement the decision, unless any local government affected waives its right to comment.

The conference substitute follows the Senate bill and the House amendment in amending subsection (c)(8) of section 306 to require the Secretary to find, as part of a state's mandatory consideration of the national interest involved in the planning and siting of energy facilities, that such state has given consideration to any applicable interstate energy plan or program promulgated by an interstate entity which is established under the new section 309 added by the conference substitute.

As a conforming change, subsection (g) (on amendments to approved management plan) is amended to permit section 306 administrative grants to be made to states whose plans are approved prior to October 1, 1978, but whose 305(b) (7), (8), and (9) processes are not approved as of this date.

Section 6. Consistency and Mediation

The conference substitute follows the Senate bill in amending the Federal consistency requirement to section 307(c)(3) of the Coastal Zone Management Act of 1972. The Senate bill required that each Federal lease (for example, offshore oil and gas leases) had to be submitted to each state with an approved coastal zone management program for a determination by that state as to whether or not the lease was consistent with its program. The conference substitute further elaborates on this provision and specifically applies the consistency requirement to the basic steps in the OCS leasing process—namely, the exploration, development and production plans submitted to the Secretary of the Interior. This provision will satisfy state needs for complete information, on a timely basis, about the details of the oil industry's offshore plans.

Also, under the substitute, any subsequent OCS Federal license or permit required for activities specified in any exploration, development, and production plan are presumed to be consistent once the plan is certified as being so consistent. This important change will significantly expedite OCS oil and gas development. Under present Department of Interior regulations, Federal permits are required for a large number of individual activities, including geophysical exploration, bottom sampling, well drilling for exploration or production, pipeline right-of-way, structure placement, waste discharge, and

dredging and filling operations. Thus, separate consistency determinations on each activity, described in detail in an exploration, development or production plan, will not be necessary.

The conference substitute additionally provides that any amendment to an OCS exploration, development or production plan requires a consistency determination within three months (rather than the present requirement of six months) by the coastal states.

The conference substitute also amends section 307 to direct the Secretary to seek, in cooperation with the Executive Order of the President, to mediate any serious disagreement between any Federal agency and a coastal state with respect to the initial implementation of a management program or to the administration of an approved management program.

During their deliberations, the conferees raised a number of questions regarding the advisability and workability of the present Federal consistency provision in the 1972 Act. Particular attention was focused on certain ambiguities in critical procedural determinations and the necessity of the six-month period for conclusive presumption. It was determined that these matters will be the subject of subsequent in-depth oversight hearings on the coastal zone management program in the next Congress.

Section 7. Coastal Energy Impact Program

Section 7 of the conference substitute follows the Senate bill and the House amendment by adding a new section 308 to the Coastal Zone Management Act of 1972. This new section 308, which is entitled "Coastal Energy Impact Program", follows the content of the new section 308 added by the Senate bill and the new section 308 added by the House amendment and also the content of the new section 319 added by the Senate bill and the House amendment.

Subsection (a) of the new section 308 directs the Secretary of Commerce to administer and coordinate, as part of the coastal zone management activities of the Federal Government, the various forms of financial assistance which are authorized to be provided under this section to coastal states or to units of general purpose local government therein, or to both as a coastal energy impact program.

Subsection (b) of the conference substitute follows new section 308 (k) and (l) of the Senate bill and new section 308(a) of the House amendment in providing for formula grants to coastal states. Paragraph (1) of this subsection requires the Secretary to make grants annually under this subsection.

Paragraph (2) sets forth the rules to be applied in calculating each coastal state's share of the amount appropriated for purposes of grants under this subsection. (The conference substitute follows the House amendment in authorizing the appropriation of a total of \$400 million for the purpose of these formula grants.)

The formula follows both the Senate bill and the House amendment in making the state's share dependent upon (1) the volume of oil and natural gas produced from the outer Continental Shelf acreage adjacent to the coastal state involved by comparison with the amount produced from all such acreage, during the immediately preceding fiscal year; and (2) the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government

which is first landed in the coastal state involved in the immediately preceding fiscal year by comparison with the volume landed in all of the coastal states in such year. (In the computation of such volumes, the conferees, following the Senate bill, intend that 6,000 cubic feet of natural gas be considered the equivalent of one barrel of oil.)

In the Senate bill, the amount of these grants was to be determined exclusively on the basis of these two factors; in the House amendment, the amount was to be determined on the basis of these factors plus four additional measures. The conference substitute follows the House amendment and includes in the formula two additional factors which follow the House measures which most closely approximate the extent to which a coastal state is likely to sustain adverse consequences as a result of new or expanded OCS energy activity. The first of these is the amount of outer Continental Shelf acreage which is adjacent to the coastal state involved and which is newly leased by the Federal Government in the immediately preceding fiscal year by comparison with the total amount of OCS acreage newly leased by the Federal Government in such year. The second of these is 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 by comparison with the total number of such individuals residing in all of the coastal states in such year. This last factor necessarily requires that the year preceding the immediately preceding fiscal year be considered, for purposes of calculating formula grants, the "base year" against which the number of individuals who obtain new employment in the immediately preceding fiscal year as a result of new or expanded OCS energy activities is to be measured. The concept of "new employment" is intended to refer to new workers. For example, a construction worker who changes from a job on the Alaska pipeline to a job on an OCS drilling platform, or a drilling-platform worker who is relocated to a geographically different area to do the same work, in the immediately preceding fiscal year, is an individual who obtains new employment in such year as a result of new or expanded outer Continental Shelf energy activities. By contrast, an individual who is promoted from being a worker on a drilling rig to being the foreman of a rig or from being a rig construction worker to a rig production worker in the same geographical area is not such an individual.

Paragraph (3) of new section 308(b) follows paragraphs (2) and (3) of new section 308(a) in the House amendment in directing the Secretary of Commerce to collect and evaluate the information that is necessary to apply the foregoing formula and in providing statutory guidelines for determining which coastal state is the state which is "adjacent" to a particular outer Continental Shelf acreage for purposes of this subsection.

The conferees expect the Secretary to make the necessary determinations for extending lateral seaward boundaries in a timely manner, and to publish such determinations within 270 days after the date of enactment of this subsection. It is further intended by the conferees that the statutory guidelines set forth in this paragraph be applied solely for the purpose of determining which coastal state is the state which is "adjacent" to particular outer Continental Shelf acreage under this Act, and that such guidelines not be construed to have

application to any other law or treaty of the United States, either retrospectively or prospectively.

Paragraph (4) of this subsection follows paragraph (4) of the corresponding House subsection and the opening provisions of the corresponding Senate subsection in setting forth the purposes for which the proceeds of formula grants are to be used (with priority to be given to the use of such proceeds for the retirement of state and local bonds). the purposes are—

(1) the retirement of state and local bonds, if any, which are guaranteed under subsection (d) (2) (and if the amount is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds) ;

(2) the study of, planning for, development of, and the carrying out of projects and programs in such state which are (A) necessary, because of the unavailability of adequate financing under any other subsection, to provide new or improved public facilities and public services that are required as a direct result of new or expanded outer Continental Shelf energy activity; and (B) 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; and

(3) the prevention, reduction, or amelioration of any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource where such loss results from coastal energy activity.

Formula grants could indeed be used for "bricks and mortar", for environmental problems, for planning, etc., but in the case of public facilities and public services referred to in paragraph (2), the coastal states would have to turn first to the loan and guarantee provisions under subsection (d); and if such loans and guarantees are not available because apportionments to such states from, or sums in, the Fund are insufficient, if the amount of such loans or guarantees, if available, is not adequate, or if such states could not qualify for assistance under subsection (d), then they could tap their allocations for formula grants.

Paragraph (5) follows new section 308(a) (5) of the House amendment and new section 308(e) of the Senate bill by providing that 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 would 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).

The conference substitute further provides that 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.

Subsection (c) of the conference substitute follows new section 308 (a) of the Senate bill and new section 308(b) (1) of the House amendment in providing for the making of planning grants to the coastal states for use by them (or by localities through required suballocation under subsection (g) (2)) in studying and planning for any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in the coastal zone from the siting, construction, expansion, or operation of new or expanded energy facilities. The maximum Federal share of such a grant may not, as under the House amendment, exceed 80 per centum of the cost of such study and planning.

Subsection (d) follows (1) new section 308 (b) and (c) (1) of the Senate bill and new section 308(b) (2) in providing for grants; (2) new section 308 (b) and (c) (2) of the Senate bill in providing for loans; and (3) new section 319 of the Senate bill and new section 319 of the House amendment in providing for guarantees of state and local bonds and other evidences of indebtedness, as part of the coastal energy impact program. Paragraph (1) provides for the making of loans to coastal states and units of general purpose local government to assist such states or units to provide new or improved public facilities or public services, or both, which are required as a result of coastal energy activity. Such loans will be subject to various prerequisites, terms, conditions, and requirements under regulations which are required to be issued under subsection (e) (as to security, repayment schedule and other submissions, maximum interest rate, etc.) and may be subject to regulations issued under section 317 (as redesignated) of the 1972 Act as amended by the conference substitute, except that such loan shall be made solely pursuant to this title, and no such loan shall require, as a condition thereof, that a state or local unit pledge its full faith and credit to repayment.

Paragraph (2) provides for the guaranteeing of bonds or other evidences of indebtedness issued by coastal states or units 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 coastal energy activity. The prerequisites, terms and conditions, requirements, and procedures with respect to such guaranteed bonds and other evidences of indebtedness and the obligation of the United States in the event of default are set forth in subsection (f) of new section 308.

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 under a paragraph (1) or a guarantee under paragraph (2), because the actual new increases in employment and related population resulting from coastal energy activity and facilities associated therewith do not provide adequate revenues to enable such state or unit to meet those obligations in accordance with the repayment schedule submitted, reviewed, and approved pursuant subsection (e) (3), the Secretary is required to provide relief as specified in paragraph (3). The Secretary shall (1) modify appropriately the terms and condi-

tions of the loan or guarantee involved so that such state or unit may meet its obligations as so modified; (2) refinance the loan involved so that the payment obligations can be met; (3) make a supplemental loan whose proceeds are to be applied to the payment of the outstanding obligation; or (4) make a grant whose proceeds are to be applied to the payment of the outstanding obligations. If the Secretary has taken one of the first three courses of action but finds pursuant to the criteria and procedures of subsection (e) (3) that additional action under these three courses will not enable the state or unit involved to meet all its outstanding obligations resulting from the loan or guarantee, within a reasonable period of time, then the Secretary shall make a grant to such state or unit in an amount sufficient to enable it to meet such obligations. Assistance under this paragraph is intended to be granted automatically when these conditions exist, as soon as the inability of the coastal state or local unit to meet its repayment obligations under paragraph (1) loan or under the indebtedness guaranteed under paragraph (2) is apparent.

Paragraph (4) provides for grants to coastal states to enable them to prevent, reduce, or ameliorate any unavoidable loss of a valuable environmental or recreational resource described in subsection (b) (4) (C) if and to the extent that the state involved has not received amounts under subsection (b) which are sufficient to prevent, reduce, or ameliorate such loss. This provision, which follows new section 308(b) (2) and the definition of net adverse impacts in new section 304(n) (2) of the House amendment, is the one situation in which assistance under subsection (b) is primary. The term "valuable", for purposes of this paragraph and of subsection (b) (4) (C), does not refer solely to economic value, but includes value to the ecosystem and for recreational purposes, and any other present and future value. If such a loss "results" from coastal energy activity, such funds may be used for the reduction or amelioration of any present consequence of such activity, regardless of the date of such activity or the date on which such consequence was first suffered, as well as for the prevention of similar such losses which may otherwise occur in the future.

Subsection (e) sets a time limitation on the issuance of certain rules and regulations by the Secretary. The rules and regulations described in this subsection must be promulgated within 270 days after the date of enactment of new section 308. This subsection follows new section 308(e) as added by the Senate bill. The rules and regulations required within this time period include (1) a formula and procedures for allocating each coastal state's share of amounts appropriated and available in the fund for such purpose; (2) criteria under which the Secretary shall review each coastal state's compliance with the requirements of subsection (g) (2); (3) criteria and procedures for evaluating the extent to which any subsection (d) (1) or (2) loan or guarantee can be repaid the applicable state's or unit's ordinary methods and rates for generating tax revenues (which shall include the submission of specified information and materials, including a populations statement, description, tax projection, and a proposed repayment schedule); (4) requirements, terms, and conditions which may be imposed

to assure repayment, to limit the duration of public service financing, and to protect the interests of the United States; and (5) criteria under which the Secretary shall establish the rate of interest on loans (not to exceed current average market yield on comparable U.S. obligations). The Secretary is directed to request the views of or consult with appropriate persons in developing these rules and regulations.

Subsection (f) follows subsections (c) through (k) of new section 319 as added by the House amendment and new section 319 as added by the Senate bill in providing the detailed provisions and requirements applicable to the guarantee of bonds and other evidences of indebtedness.

Paragraph (1) of subsection (g) follows the Senate bill and the House amendment in providing that no coastal state is eligible to receive any financial assistance under this section unless such state (1) has an approved coastal zone management program; (2) is receiving a coastal zone management development or completion and initial implementation grant; or (3) is making satisfactory progress toward the development of a management program consistent with the policies set forth in section 303 of the 1972 Act, as amended. Paragraph (2) requires each coastal state to provide, to the maximum extent practicable, that financial assistance provided under this section be apportioned, allocated, and granted to units of local government of such state on a basis which is proportional to the extent to which such units need such assistance.

Subsection (h) establishes the Coastal Energy Impact Fund in the Treasury of the United States, as a revolving fund based on appropriated funds and miscellaneous receipts related thereto. The Fund shall be available to the Secretary for the purposes of subsections (c) and (d).

Subsection (i) prohibits the Secretary from interceding in any land use or water use decision of any coastal state with respect to the siting of energy facilities or public facilities by making siting in a particular location a prerequisite to financial assistance under this section.

Subsection (j) authorizes the Secretary to evaluate and report to the Congress on the efforts of the coastal states to reduce or ameliorate any adverse consequences resulting from coastal energy activity and the extent to which such efforts involve adequate consideration of alternative sites for such activity.

Subsection (k) provides that to the extent that Federal funds are available under 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 administer such subsection to the extent practicable (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.

Subsection (l) defines the terms "retirement", "unavoidable", and "unit of general purpose local government" as used in section 308.

Section 8. Interstate Grants

Section 8 of the conference substitute follows the Senate bill and the House amendment in adding a new section 309 to the Coastal Zone Management Act of 1972. This new section 309, which is entitled, "Interstate Grants", follows the content of the new section 309 added by the Senate bill and the new section 309 added by the House amendment.

Subsection (a) encourages the coastal states to coordinate coastal zone planning, policies, and programs with respect to contiguous areas of such states and to study, plan and implement 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 is authorized to assist therein through the making of grants in an amount not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation. Such grants may only be made if the Secretary finds that the proceeds thereof will be used for purposes consistent with sections 305 and 306 of the Coastal Zone Management Act of 1972.

In subsection (b), the Congress grants its consent to any two or more coastal states to negotiate and enter into agreements or compacts for coordinated coastal zone activities and the establishment of such executive instrumentalities or agencies as such states deem desirable for implementation of such agreements or compacts; so long as such agreement or compact is not in conflict with any law or treaty of the United States.

Subsection (c) encourages each executive instrumentality or agency which is established by such an interstate agreement or compact to adopt a Federal-State consultation procedure as to mutual problems affecting the coastal zone. Specified Federal officials are authorized and directed to participate in such consultations whenever requested by such an instrumentality or agency.

Subsection (d) provides for coordination by the Secretary of coastal zone activities described in subsection (c) and for the making of grants for temporary planning and coordinating agencies established and maintained by any interstate instrumentality or any group of coastal states, if no applicable interstate agreement or compact exists, to provide, inter alia, an effective mechanism and a Federal-State consultation procedure.

Section 9. Research and Technical Assistance

Section 9 of the conference substitute follows the Senate bill and the House amendment in adding a new section 310 to the Coastal Zone Management Act of 1972. (The conference substitute renumbers existing sections 308 through 315 of the 1972 Act as sections 311 through 318, respectively.) This new section 310, which is entitled, "Coastal Research and Technical Assistance for Coastal Zone Management", follows the content of the new section 310 added by the Senate bill and subsections (a) and (b) of the new section 310 added by the House amendment.

Subsection (a) authorizes the Secretary to conduct a program of research, study, and training to support the development and im-

plementation of coastal zone management programs. The Secretary is authorized to enter into contracts and other arrangements for these purposes and other Federal agencies are to assist in carrying out these purposes.

Subsection (b) authorizes the Secretary to make grants to any coastal state to assist such state in carrying out research, studies, and training required in support of coastal zone management, in an amount not to exceed 80 per centum of the cost of such research, studies and training.

Subsection (c) requires the Secretary to provide for the coordination of these research and training activities with other such activities conducted by the Secretary. The Secretary shall make the results of any such research available to any interested person.

Section 10. Review of Performance

Section 10 of the conference substitute makes a conforming change in section 312 of the 1972 Act (formerly section 309) to apply the performance review requirement of that section to the Coastal Energy Impact Program provided for under section 308.

Section 11. Audit of Transactions

Section 11 of the conference substitute follow the House amendment by making a conforming change in section 313 of the 1972 Act (formerly section 310) to provide for recordkeeping and auditing, by the Secretary and the Comptroller General of the United States, with respect to financial assistance and transactions under section 308.

Section 12. Acquisition of Access to Public Beaches and Other Public Coastal Areas

Section 12 of the conference substitute follows the House amendment in amending section 315 of the Coastal Zone Management Act of 1972 (formerly section 312) to authorize the Secretary to make grants to coastal states for up to 50 per centum of the cost of acquisition of access to public beaches and other public coastal areas of specified value and follows new section 320(6) of the Senate bill in including in such authorization grants for the preservation of islands. The amendment and the existing section are conformed for the sake of greater clarity.

Section 13. Annual Report

Section 13 of the conference substitute follows the Senate bill and the House amendment in adding three more mandatory subjects to the required annual report on the administration of the Coastal Zone Management Act of 1972, under section 316(a) of the 1972 Act (formerly section 313). The three new topics follow the three new sections added by the conference substitute.

Section 14. Authorization of Appropriations

Section 14 of the conference substitute amends section 318 of the Coastal Zone Management Act of 1972 (formerly section 315) to provide for appropriation authorizations for each of the several programs for which funds may be expended under the 1972 Act and the conference substitute amendments to that Act. In each case, the authoriza-

tion figure included in the conference substitute is the lower amount authorized as between the amounts authorized for the same purpose in sections 308, 319, and 320 as redesignated and amended by the Senate bill and in sections 308, 319, and 320 as redesignated and amended by the House amendment.

Section 318(c) sets forth existing law and follows the House amendment by providing that Federal funds from other sources shall not be used to pay a coastal state's share of costs under section 305, 306, 309 or 310.

Section 15. Administration

Section 15 of the conference substitute follows section 103 of the Senate bill and section 3 of the House amendment in creating in the National Oceanic and Atmospheric Administration a new officer to be known as the Associate Administrator for Coastal Zone Management. This Associate Administrator shall be an individual who is especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972. The section also authorizes the Secretary to create four new management positions to carry out the provisions of the amendments made by this legislation.

Section 16. Shellfish Sanitation Regulations

Section 16 of the conference substitute follows new section 310(c) and (d) of the House amendment in providing for a special study of shellfish. The Secretary of Commerce is directed to undertake a comprehensive review of all aspects of the molluscan shellfish industry and to evaluate the impact upon such industry of Federal law concerning water quality. By not later than April 30, 1977, the Secretary is required to submit to the Congress a report of the findings, comments, and recommendations (if any) which result from this review and evaluation. The section further provides that the Secretary of Health, Education and Welfare shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977 and that such Secretary, in consultation with the Secretary of Commerce, shall publish an analysis of the economic impact of such regulation on the domestic shellfish industry and of the cost of the national shellfish sanitation program relative to the benefits that it is expected to achieve. This analysis shall be published at least 60 days prior to the promulgation of any such final regulations. This analysis, with respect to cost relative to the benefits means the publication in the Federal Register of (1) an estimate, based on the best data available to the Secretary of Health, Education and Welfare, of the probable cost (in terms of annual impact or other appropriate measure) to the shellfish industry, the consuming public, and the Federal Government which is likely as a consequence of the implementation of these final regulations and (2) a description of the probable benefits which might be expected from such implementation in terms, for example, of the prevention of serious illness or death or in the reduction of the risk of illness to consumers of shellfish. Since the conferees are aware that in the area of food safety regulation the quantification of public health benefits is extremely difficult, if not impossible, this provision

is not intended to require a formal cost-benefit analysis with respect to quantifiable benefits, but an effort should be made to weigh the costs and benefits as objectively as possible.

WARREN G. MAGNUSON,
 ERNEST F. HOLLINGS,
 JOHN V. TUNNEY,
 TED STEVENS,
 LOWELL P. WEICKER, Jr.,
Managers on the Part of the Senate.

LEONOR K. SULLIVAN,
 THOMAS N. DOWNING,
 PAUL G. ROGERS,
 JOHN M. MURPHY,
 JOHN B. BREAUX,
 PIERRE S. DU PONT,
 DAVID C. TREEN,
Managers on the Part of the House.

